

MARTHA A. WOMACKS
MARION COUNTY RECORDER

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PLAT COVENANTS

HUDSON BAY AT SOUTHERN DUNES, SECTION 1

THIS INSTRUMENT IS SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER

This instrument, executed by R.N. THOMPSON DEVELOPMENT CORPORATION, hereinafter referred to as "Developer" or as "Declarant", with the consent and approval of the Wellingshire Joint Venture (consisting of R.N. Thompson Development Corporation and Waterway Holdings, Inc.) as Owner of the Real Estate, hereby establishes plat covenants, conditions, and restrictions for the real estate platted as Hudson Bay at Southern Dunes, Section 1, which real estate is described in Exhibit 1 hereto.

The term "Subdivision" as used herein shall mean Hudson Bay at Southern Dunes. Hudson Bay at Southern Dunes, Section 1 shall consist of 53 lots, numbered Lots 1 through 53, plus Blocks "A" and "B", together with streets, easements and public ways shown on the plat.

In order to provide adequate protection to all present and future owners of lots in this subdivision, the following covenants, restrictions and limitations, in addition to those set forth in the Declaration of Covenants, Conditions and Restrictions for Southern Dunes (the "Master Declaration"), recorded with the Recorder of Marion County on December 23, 1998 as Instrument No. 1998-0228187, are hereby imposed upon and shall run with the land included in this subdivision and shall be binding upon the Developer and anyone at any time owning or using any part or portion of such land. Ownership of the real estate in this subdivision shall also be subject to rights, powers, duties, and obligations of the Southern Dunes Homeowners Association, Inc. (the "Association"), the Southern Dunes New Construction Committee ("New Construction Committee"), and the Southern Dunes Architectural Control Committee (the "Architectural Control Committee"), as set forth in the Declaration, and Design Guidelines promulgated by either Committee. All owners shall take their title subject to the terms and conditions of the Declaration.

If there is an irreconcilable conflict between any of the covenants and restrictions contained in this plat and the covenants and restrictions contained in the Declaration, the conflicting covenant or restriction contained in this plat shall govern and control, only to the extent of the irreconcilable conflict, it being the intent hereof that all such covenants and restrictions shall be applicable to said real estate to the greatest extent possible.

NOTICE: Prior to application for an improvement location permit from the appropriate governmental agency for the construction of a residence or other structure, site plans, landscaping plans and building plans shall have been approved in writing by the Southern Dunes New Construction Committee as defined in Article 10 of the Master Declaration. Such approval shall include but not be limited to: building design, color and location, private drives, tree preservation, and proposed landscaping and fencing, all in accordance with the requirements of the Southern Dunes Design Guidelines.

NOTICE 2: The Southern Dunes community is located over a wellfield owned and operated by the Indianapolis Water Company ("IWC") as one of its primary sources of water. As a result, there are substantial covenants contained in the Master Declaration imposed to prevent contamination of the soil and groundwater under this community. Those covenants, combined with other covenants, restrictions, servitudes, rights and easements imposed on IWC's behalf to protect this public water source affect the use of land in the community and prohibit certain uses that might be allowed on other property. Exhibit 2 to these covenants contains a description of the IWC covenants, restrictions, servitudes, rights and easements designed to protect this water supply. The land of Southern Dunes is also subject to the provisions of the Wellfield Protection Zoning Ordinance of Marion County.

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Indiana, added to the Code of Indianapolis and Marion County (Vol. III, App. D), and thereafter amended under Metropolitan Development Commission Docket Nos. 95-AO-6, 13A and 13B; 96-AO-6, 97-AO-1 and 10; and 98-AO-3.

NOTICE 3: Also because the Southern Dunes community is located over a wellfield, there will be substantial variations in the water level of the water retention ponds and lakes throughout this community. Included within these variations will be occasions when the water retention ponds and lakes may be completely dry or have a very low water level. Also, there will be occasions when the water level will be higher than normal, decreasing the usable portion of an owner's yard or resulting in greater water pressure against the foundation and/or basement of a residence or other building. Neither the Declarant, the Fee Owner, Indianapolis Water Company, or the Association shall be liable to any owner, occupant or other person or entity within the community for excessive water levels, for flooding, or for inadequate water levels or the absence of water in the water retention ponds and lakes throughout the Southern Dunes community.

1. Lots are subject to the following: Drainage Easements, Utility Easements, Sewer Easements and Landscape Easements, either separately or in combination, as shown on the Plat, which easements are reserved for the use of the Declarant, the Southern Dunes Homeowners Association, Inc. (hereinafter referred to as the "Association"), public or private utility companies, and governmental agencies, as follows:

"Drainage Easements" are created as shown on the Plat to provide paths and courses for area and local storm drainage, either over land or in adequate underground conduit, to serve the needs of the subdivision and adjoining ground and/or the public or private drainage system. Under no circumstances shall drainage easements be blocked in any manner by the construction or reconstruction of any improvement, nor shall any grading restrict the water flow in any manner, without the prior approval of the Architectural Control Committee and the governmental authority having jurisdiction over drainage. Drainage Easements are subject to maintenance, construction or reconstruction to any extent necessary to obtain adequate drainage at any time by any governmental authority having jurisdiction over drainage or by Declarant, its successors or assigns.

"Utility Easements" are hereby created as shown on the Plat for the use of public or private utility companies and cable television companies, not including transportation companies, for the installation, maintenance, and replacement as necessary of pipes, mains, ducts and cable or other related utility structures, as well as for the uses specified for sewer easements. No above ground utilities may be installed without the prior written consent of the Architectural Control Committee.

"Sewer Easements" also referred to as "Sanitary Easements" are hereby created as shown on the Plat, either specifically designated as Sewer Easements or designated generally as Utility Easements, for the use of the Utility, public or private, having jurisdiction over the sanitary waste disposal system designated to serve Southern Dunes. All designated Utility Easements shall also include Sewer Easements. Additional provisions relating to Sanitary Sewers are contained herein.

"Landscape Easements" are hereby reserved and created over and across Lots as shown on the Plat, within which landscaping, earth mounds, screening material, fencing, walls, neighborhood and community identification signs, directories, lighting, irrigation systems and other improvements may be constructed and maintained by the Developer or the Association to provide landscape design continuity and ensure attractive and aesthetically pleasing entryways into the Community.

Within Landscape Easements, the Developer and the Association shall have the right to install, inspect, maintain, reconstruct and remove such landscape improvements as described herein. Without limiting the generality of the foregoing, the Landscape Easements may include sidewalks, walking trails and paths. Owners of lots shall have the right to fully use and enjoy their own lot, except for such use as may impair, impede, or interfere with the exercise by the Developer or Association of the landscaping and other rights granted herein. Owners of lots shall not construct, nor permit to be constructed any structure or obstruction on or over any part of a lot or interfere with the Developer's or Association's ability to use or gain access to the lot for purposes permitted by this Landscape Easement, without the prior written approval of the Developer or the Association.

The Developer, the Association and any other Utility for whose use the Easement areas are created and reserved shall have a right to go on any lot temporarily to the extent reasonably necessary for the exercise of the easement rights granted by this paragraph. No permanent structures shall be erected or maintained upon Drainage, Utility, Sewer or Landscape Easements by any Owner without the prior approval of the Architectural Control Committee.

The following provisions shall also apply to sanitary sewers:

- 1) Sanitary sewer easements may be used by the Department of Public Works of the City of Indianapolis or such other utility company having authority over sewer easements within the Southern Dunes community (hereinafter collectively referred to as "Utilities") for the construction, extension, operation, inspection, maintenance, reconstruction, and removal of sanitary sewer facilities, and all such easements shall include a right of ingress and egress necessary and appropriate to accomplish the purposes stated herein.
- 2) Pavement or concrete, including driveways and sidewalks, shall not be constructed on or within one (1) foot horizontal distance of any sanitary sewer manhole or cleanout casting.
- 3) The drip line of all trees must be located a minimum of ten (10) feet from the center of sanitary sewers and manholes and no trees shall be planted directly over building sewers (laterals). Any landscaping placed within easements or rights-of-way is at risk of being removed by Utilities without the obligation of replacement.
- 3) No mounding, lighting, fencing, signs, retaining, landscaping or entrance walls, irrigation lines, etc. shall be placed within ten (10) feet of the center of the sanitary sewer infrastructure. Any of the above listed items placed within easements or rights-of-way is at risk of being removed by Utilities without the obligation of replacement.
- 4) All homeowners not served by gravity sanitary sewer service are responsible for all maintenance, repair and replacement of all grinder/ejector pumps, force mains and gravity laterals from the residence to its connection to the sanitary sewer main.
- 5) No owner or occupant, and no lot or unit may discharge storm water or other clear water sources (foundation drains, sump pumps, roof drains, etc.) into the sanitary sewer system.
- 6) Grade changes across sanitary sewer facilities must be approved in writing by the Department of Public Works of the City of Indianapolis.

The Developer shall retain the right to display marketing and promotional signs within this subdivision, including within any right of way island, both for the Developer and for any Builder approved by the Developer, until the sale of the last lot in the Southern Dunes Community, including Sections not yet platted, to an Owner other than a Builder.

The owners of lots in this subdivision shall take and hold title to their lots subject to all of the foregoing Easements, to the rights of the public utility companies, governmental agencies, the Developer, the Association and others therein (which rights also include the right of ingress and egress in, along, across and through said Easements), to the jurisdiction of the proper authorities and to the covenants herein granted and reserved.

2. (Intentionally omitted)

3. DRAINAGE PLAN. It shall be the responsibility of the owner of any Lot or parcel of land within the area of this plat to comply at all times with the provisions of the drainage plan as approved for this plat by the Department of Public Works of the City of Indianapolis and the requirements of all drainage permits for this plat issued by said Department.

It shall also be the duty of every Owner of every Lot in this Subdivision on which any part of an open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon his Lot continuously unobstructed and in good repair.

In the event that the Owner does not comply with the drainage plan or does not maintain the storm drainage ditch or swale upon their Lot or any portion of a drainage pond upon their Lot, after written notice and a thirty day opportunity to do so, the Association shall have an easement to come upon such Owner's property to make any necessary corrections or repairs, and the Association shall be entitled to reimbursement for its costs and shall have a lien upon such Owner's property therefor, collectable as provided in Section 11.9 of the Declaration. In the event of an emergency, the thirty day requirement above shall not be required, but the Association shall give the Owner such notice as is practical under the circumstances.

4. DEDICATION OF STREETS. The rights-of-way of the streets as shown on this plat, if not heretofore dedicated to the public, are hereby dedicated to the public for use as a public right-of-way, subject however to a reservation of ingress-egress for the maintenance to medians in the subdivision and also subject to an easement for utility services as provided in paragraph 1 of these Plat Covenants.

5. BUILDING LOCATION AND SIZE. All building locations must comply with the zoning ordinances and zoning commitments for this subdivision. Subject to other provisions contained herein, building setback lines are hereby established as shown on this plat, and no building or structure shall be erected or maintained between the setback lines and the property lines of the lots. The owners of all lots shall be required to submit a drainage plan, including a minimum building elevation, to the governmental agency which issues building permits. The minimum pad or building elevation as so approved by the New Construction Committee and the governmental agency shall constitute the minimum elevation for all buildings on said lot.

Except with the advanced written approval of the New Construction Committee and subject to easements shown on the plat, no building, structure or accessory building shall be erected closer than five feet (5') to any side lot line, and in no case shall aggregate side yards between homes be less than ten feet (10'). No building, structure or accessory building shall be erected closer to the right-of-way of any street than twenty five feet (25') on local streets and thirty feet (30') on collector streets. Where buildings are

erected on more than one single lot (or parts thereof), these restrictions shall apply to the combined lots (or parts thereof) as if they were one single lot, and the restrictions applied based on the distance from the buildings, structures or other improvements to the adjacent lot lines adjoining the combined lot.

Each one story residence shall be not less than one thousand (1,000) square feet of finished and livable floor area, exclusive of open porches and garages, and each multiple story structure shall be not less than one thousand six hundred (1,600) square feet, in the aggregate, of finished and livable floor area, exclusive of open porches and garages. The Design Guidelines may also specify the minimum square footage requirements for the first floor of any multiple story residence.

Each residence shall have an attached garage of a size to accommodate at least two cars. No garage may be converted to a livable space without prior approval of the Architectural Control Committee and the construction of another attached garage.

6. DRIVEWAYS. Each driveway in this Subdivision shall be of concrete or asphalt material, and no additional parking shall be permitted on a Lot other than the existing driveway, except with the prior approval of the Architectural Control Committee. No Lot may have a driveway on more than one street.

7. RESIDENTIAL USE ONLY. All Lots in this Subdivision shall be used solely for residential purposes except for residences used as model homes during the sale and development of this Subdivision. No business buildings shall be erected on said Lots, and no business may be conducted on any part thereof, other than home occupations approved by the Southern Dunes Board. No residence shall be erected, altered, placed or permitted to remain on any Lot herein, other than one detached single-family residence not to exceed two and one-half stories in height.

No trailer, shack, tent, boat, garage or outbuilding may be used at any time as a residence, temporary or permanent; nor may any structure of a temporary character be used as a residence. With the consent of the Declarant, a builder may have a temporary structure during the construction of a residential building on the property, which temporary construction building or trailer shall be promptly removed upon completion of construction of the building.

8. LIMITATION ON VEHICLES. No inoperative or unlicensed vehicle shall be parked or repaired anywhere within the Subdivision, including on any Lot or on the driveway thereof. No camper, trailer, mobile home, boat, truck or school bus may be parked in the Subdivision, including on any Lot or on the driveway thereof, except:

a. Personal automobiles, vans and pick-up trucks (not larger than 3/4 ton) may, subject to rules and regulations established in the Master Declaration or by the Southern Dunes Board of Directors, be parked on a private driveway, and

b. A camper, trailer, mobile home, or boat may be stored in an enclosed attached garage of average residential proportions, and

c. The Southern Dunes Board of Directors may establish rules prohibiting or regulating parking on the public streets within the Subdivision.

9. LIMITATIONS REGARDING TRASH. Garbage and trash shall be kept in approved containers, kept in a clean and sanitary condition, and kept in a location which is not visible from the street, except on collection day or the evening before collection day. No Lot shall be used or maintained as a dumping ground for rubbish or other waste materials and trash shall be

regularly removed from the Property.

10. ARCHITECTURAL DESIGN AND ENVIRONMENTAL CONTROL. No structure or improvement -- including but not limited to residences, accessory structures, landscaping, fences, walls, mounds, ponds, pools, patios, basketball goals and other permanent structures for sports and recreation -- shall be erected, placed or altered on any Lot in this Community until the building plans, specifications and plot plan showing the location, materials, and appearance of the planned improvement have been submitted to and approved by the Architectural Control Committee or by the New Construction Committee, as appropriate, regarding conformity and harmony of external design, topography, and finished ground elevations.

The provisions of Article 10 of the Southern Dunes Master Declaration shall be followed and complied with by every owner, builder, contractor and any other person or entity residing in this subdivision or making any improvement to any lot or structure within this subdivision.

Each Owner or builder of a new home on a Lot shall submit a detailed landscape plan to the New Construction Committee, in conjunction with its application for initial approval, which plan shall include sodding the front yard of each residence and the side yards to the back line of the residence. The landscape plan shall be completed on or before the transfer of title of said Lot to the first occupant of such residence, or funding therefore shall be escrowed with an approved title company. A corner lot shall be considered to have two front yards. In the event that the owner's back yard lawn treatment does not result in full grass coverage within one year of initial occupancy, the Declarant may require the Owner to install sod in all areas of inadequate coverage.

Any exception as to method or timing of lawn treatment and coverage must be approved by the Developer in writing prior to beginning construction. In the event that title passes to a homeowner without meeting the above requirements, the homeowner and general contractor will become jointly responsible for meeting this requirement.

The Design Guidelines may establish special restrictions regarding fences for Lots adjacent to, or visible from, the lakes or the golf course.

11. INTERSECTION VISIBILITY. No fence, wall, hedge, shrub or planting which obstructs sight lines at elevations between two (2) and nine (9) feet above the street, shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting points twenty-five (25) feet from the intersection of said street lines, or in the case of a rounded property corner, from the intersection of the street lines extended. The same sight line limitations shall apply to any Lot within ten (10) feet from the intersection of a street line with the edge of a driveway pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of the sight line.

12. LANDSCAPE EASEMENTS - PRO RATA MAINTENANCE OBLIGATION. If, for any reason, the Southern Dunes Homeowners Association would cease to exist or cease to function, the areas designated on the plat as Blocks, landscape easements or landscape and utility easements shall be maintained by the title owner of the Lot upon which the easement exists. Whoever has the maintenance responsibility herein detailed shall have the right of contribution to the extent of money so expended (including reasonable costs for administration), from each Lot owner on an equal proratable basis for all Lots in all of the sections of this Subdivision. Each Lot owner's obligation may be collected in advance of the expenditure in a reasonable amount, shall mature thirty (30) days after the date of receipt of notice of his or her obligation, and shall

draw interest at twelve percent (12%) per annum after the obligation matures with reasonable attorney fees if such services are required to secure payment.

13. MISCELLANEOUS PROVISIONS.

a. Each residence shall have a single mailbox, standardized in size, appearance and color, according to the Design Guides, and maintained in good condition at all times. The size, design and color shall be specified by the Declarant and shall be purchased, installed and maintained by the Homeowner.

b. Each residence shall have at least one coach light attached and hard wired to the garage and/or the front entry of the house which is illuminated by a photo cell, as set forth in the Design Guidelines, which shall be maintain by the Owner in good working condition.

c. Except as may be specifically approved by the Architectural Control Committee, window air conditioning units may not be installed on any lot.

d. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Lot unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the Architectural Control Committee.

e. No satellite receiving dish greater than one meter in diameter shall be erected or installed on any Lot. Exposed antennae shall not exceed one meter, in diameter or horizontal dimensions, and shall not exceed twelve (12) feet above roof peak. No lot shall have more than one satellite dish and one antennae without the prior approval of the Architectural Control Committee, and, to the extent that acceptable reception may be obtained, any satellite dish or antennae shall be attached to the house and installed on the back of the house. The Design Guidelines may impose requirements (which do not impair reception) for painting or screening of satellite dishes and antennae, location, and other restrictions on antennae and satellite dishes.

f. No fuel storage tanks shall be permitted on the Property, except during the initial construction of any home, and then only with the express written consent of the Developer.

g. Sump pumps, gravity drains and other drains serving individual residences or lots shall not outfall or empty onto grass swales between lots, but only into major drainage swales or storm structures included in the storm drainage system for the subdivision, without the express consent of the Developer.

h. The discharge of firearms within Southern Dunes, except for the protection of an individual from personal attack or injury, is prohibited. The term "firearms" includes bows and arrows, slingshots, "B-B" guns, pellet guns, and other firearms of all types, regardless of size. Notwithstanding anything to the contrary contained herein or in the By-Laws, the Association shall not be obligated to take action to enforce this Section.

14. SWIMMING POOLS, HOT TUBS AND OTHER STRUCTURES. No above ground swimming pools shall be erected, constructed or installed on any Lot. Below ground pools, hot tubs, spas, jacuzzis or similar water recreational facilities may be installed with prior approval of the Architectural Control Committee. The Committee may consider lot size and available room on the lot for such facilities as one of its considerations. The Committee may impose a fencing requirement for such facilities which is greater than what is required by governmental entities.

Any attached garage, tool shed, storage building or any other attached building erected or used as an accessory to a residence shall be of a permanent type of construction and shall conform to the general architecture and appearance of such residence.

Detached garages, tool sheds or minibarns may not be erected on any Lot. Other detached structures, including enclosures for approved swimming pools, hot tubs or spas and enclosures for pets, shall be limited (or prohibited) as determined by the Committee, and plans shall be submitted to the Committee for approval prior to construction. The Master Declaration contains additional provisions relating to such structures.

15. MAINTENANCE. It shall be the duty of each owner in the subdivision to maintain the house and any additional structures on their lot. In the event the owner of any lot fails to do so in a manner satisfactory to the Association, the Association shall have the right (but not the obligation) through its agents and employees, to enter upon said lot and to repair, maintain and restore the lot and/or the exterior of the improvements erected thereon. The cost of such exterior maintenance shall be and constitute a special assessment against such lot and the owner thereof, to be assessed, collected and enforced as provided in the Southern Dunes Declaration.

16. DURATION OF COVENANTS. These covenants and restrictions shall run with the land and shall be binding upon all persons or entities from time to time having any right, title or interest in the Real Estate, or any part thereof, and on all persons or entities claiming under them, until twenty (20) years after the date of recording hereof. After the initial 20 years, these covenants and restrictions shall be automatically extended for successive periods of ten (10) years each, unless prior to the commencement of any such extension period, by a vote of at least seventy percent (70%) of the then owners of the Lots in the Hudson Bay at Southern Dunes Subdivision, it is agreed that said covenants and restrictions shall terminate in whole or in part; provided, however, that no termination of said covenants and restrictions shall affect any easement hereby created and reserved unless all persons entitled to the beneficial use of such easement shall consent thereto.

Lot owners may amend these covenants in whole or in part by an affirmative vote of 70% of the Lot Owners. No amendment to these covenants may be made without Developer's approval and consent, until the Developer has sold all of the lots in any section of this Subdivision. Any amendment or termination shall be evidenced by a written instrument, signed by the Lot owner or owners concurring therein, which instrument shall set forth facts sufficient to indicate compliance with this paragraph and shall be recorded in the office of the Recorder of Marion County, Indiana.

17. ENFORCEMENT. Violation or threatened violation of these covenants and restrictions shall be grounds for an action by Developer, any person or entity having any right, title or interest in the Real Estate (or any part thereof), or any person or entity having any right, title or interest in a Lot in the Subdivision and all persons or entities claiming under them, against the person or entity violating or threatening to violate any such covenants or restrictions. Available relief in any such action shall include recovery of damages or other sums due for such violation, injunctive relief against any such violation or threatened violation, declaratory relief, and the recovery of costs and attorneys' fees incurred by any party successfully enforcing these covenants and restrictions; provided, however, that the Developer shall not be liable for damages of any kind to any person for failing to enforce or carry out such covenants or restrictions.

The Board shall have the authority to assess a fine or penalty, not exceeding fifty dollars (\$50) per incident, against any Owner violating the Covenants and Restrictions in these Plat Covenants or in the Declaration or any rule established by the Board. A continuing violation may be assessed an

additional fine, not exceeding fifty dollars (\$50) each week until corrected, at the discretion of the Board. Any such fine will be considered to be a special assessment against the Owner and the Owner's Lot or Unit, and collectable as provided in Section 11.9 of the Master Declaration.

18. SEVERABILITY. Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions, and of and from every combination of the Restrictions.

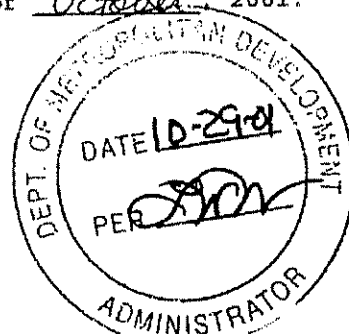
19. DECLARATION. A Declaration of Covenants and Restrictions for the entire Southern Dunes Community and establishing the rights and obligations of the Southern Dunes Homeowners Association, Inc. was recorded in the office of the Recorder of Marion County, Indiana on December 23, 1998 as Instrument No. 1998-0228187. Every Owner of a Lot in Hudson Bay at Southern Dunes will automatically be and become a member of the Southern Dunes Homeowners Association. Every Owner will be required to pay all duly established annual and special assessments, including temporary assessments in the event that the annual assessment is not timely established. All unpaid assessments will become a lien on the Owner's Lot, which may be foreclosed pursuant to the procedures established in the Declaration. No Owner may exempt himself or herself from the obligation to pay assessments by abandoning the Lot, the common areas or otherwise.

In the event that the Declaration is invalidated for any reason, every Owner nevertheless assumes a responsibility for a pro-rata portion of all common expenses, including maintenance, taxes, insurance, legal, accounting, management fees, and reserves for replacements and contingencies as a member of the Association, for regular annual assessments and for special assessments, and a lien shall attach upon the Lot owned by an Owner for such assessments. Further, an Owner who fails or refuses to pay such common expenses and assessments on a timely basis shall incur a late charge determined by the Board of up to twenty percent of the unpaid assessment plus interest of one and one half percent per month beginning thirty days after the date due, plus costs and attorney fees incurred in collection.

IN WITNESS WHEREOF, the undersigned, as the Developer of the above described real estate and a Member of the Wellingshire Joint Venture, has hereunto executed these Plat Covenants this 11th day of October, 2001.

R.N. THOMPSON DEVELOPMENT CORPORATION

By: R.N. Thompson
R. N. Thompson, President



STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE ME, the undersigned, a Notary Public, in and for said County and State, personally appeared R.N. Thompson, President of R.N. Thompson Development, Corporation, Declarant and Member of the Wellingshire Joint Venture, and acknowledged the execution of these Plat Covenants this 11th day of October, 2001.

Sonya M. Timmerman
Sonya M. Timmerman, Notary Public

My commission expires: March 4, 2004
My county of residence: Marion

APPROVED THIS 26th
DAY OF October 2001
PERRY TOWNSHIP ASSESSOR
John R. George GIS MANAGER

IN WITNESS WHEREOF, Waterway Holdings, Inc., a Member of the Wellingshire Joint Venture, has hereunto acknowledged the execution of these Plat Covenants this ____ day of _____, 2001.

WATERWAY HOLDINGS, INC.

By: *Kenneth N. Giffin*
Kenneth N. Giffin, President

STATE OF INDIANA)
) SS:
COUNTY OF Marion)

BEFORE ME, the undersigned, a Notary Public, in and for said County and State, personally appeared Kenneth N. Giffin, President of Waterway Holdings, Inc., who acknowledged the execution of these Plat Covenants this 17 day of October, 2001.

Wanda Worldridge
Notary Public
Wanda Worldridge
Printed Name

My commission expires: 9-8-06
My county of residence: Johnson

This Instrument was prepared by William T. Rosenbaum, Attorney at Law,
5875 Castle Creek Parkway, #285, Indianapolis, Indiana 46250 (317) 577-5176

October 5, 2001

LAND DESCRIPTION - Hudson Bay at Southern Dunes Section 1

Part of the Southeast Quarter and part of the Southwest Quarter of Section 16, Township 14 North, Range 3 East of the Second Principal Meridian, Perry Township, Marion County, Indiana and described as follows:

Commencing at the Northeast corner of the Southeast Quarter of said Section 16;
thence North 89 degrees 43 minutes 22 seconds West (bearings are based on the Indiana State Plane Coordinate System (East Zone)) along the North line of said Southeast Quarter a distance of 1941.55 feet;
thence South 00 degrees 00 minutes 00 seconds East 951.40 the POINT OF BEGINNING;
thence South 54 degrees 25 minutes 33 seconds East 327.03 feet;
thence South 35 degrees 34 minutes 27 seconds West 265.00 feet;
thence North 54 degrees 25 minutes 33 seconds West 115.00 feet;
thence South 35 degrees 34 minutes 27 seconds West 15.00 feet;
thence North 54 degrees 25 minutes 33 seconds West 154.78 feet;
thence South 66 degrees 29 minutes 35 seconds West 151.94 feet;
thence South 02 degrees 26 minutes 55 seconds East 110.15 feet;
thence South 35 degrees 34 minutes 27 seconds West 205.00 feet;
thence South 65 degrees 10 minutes 09 seconds West 335.87 feet;
thence North 87 degrees 18 minutes 30 seconds West 123.53 feet;
thence North 57 degrees 35 minutes 17 seconds West 185.13 feet to a non-tangent curve to the left, from which the radius point bears North 77 degrees 17 minutes 42 seconds west and being on the easterly line of Tibbs Avenue, the right of way of which was recorded on October 1, 2001 as Inst. No. 2001-0175144 in the Office of the Marion County Recorder, the following four (4) calls being along said easterly right of way;
thence Northerly along said curve an arc distance of 95.35 feet to point from which the radius point bears North 00 degrees 00 minutes 00 seconds West and having a radius of 430.00 feet;
thence North 00 degrees 00 minutes 00 seconds West 135.98 feet to a tangent curve to the right, from which the radius point bears North 00 degrees 00 minutes 00 seconds East;
thence Northerly along said curve an arc distance of 198.97 feet to point from which the radius point bears South 70 degrees 00 minutes 00 seconds East and having a radius of 570.00 feet;
thence North 20 degrees 00 minutes 00 seconds East 237.75 feet;
thence South 70 degrees 00 minutes 00 seconds East 251.88 feet;
thence South 81 degrees 44 minutes 08 seconds East 84.66 feet;
thence North 75 degrees 00 minutes 00 seconds East 324.05 feet;
thence North 90 degrees 00 minutes 00 seconds East 195.02 feet to the POINT OF BEGINNING and containing 12.601 acres more or less.

Exhibit 1

Indianapolis Water Company Covenants

1. the liens for taxes payable in 1999, and thereafter;
- and
2. all other easements, rights-of-way, restrictions, covenants and encumbrances of record.

Waterway further reserves to Indianapolis Water Company ("IWC"), and the South Well Field Land is hereby made subject to, the following covenants, restrictions, rights, easements and servitudes, all of which shall run with the South Well Field Land and shall be binding upon and inure to the benefit of Wellingshire and IWC and their successors and assigns:

1. Title to the South Well Field Land shall include only the surface of the South Well Field Land and the air above. Wellingshire shall have no rights with respect to water below the surface of the South Well Field Land. IWC shall have the right at any time and from time to time to pump, remove, own and dispose of water from the Aquifer and, for that purpose, to install on and in the South Well Field Land and thereafter operate, maintain, repair and replace, at its election, production and observation wells, lines, equipment and other facilities deemed necessary or appropriate by IWC for such pumping and removal of water from the Aquifer for delivery to its system or for the observation of ground water located in or about the South Well Field Land (such wells and related

facilities being referred to hereinafter collectively as the "Wells").

2. IWC shall have an easement of reasonable ingress and egress at all times for vehicles and pedestrians upon, across and through the South Well Field Land, in order to provide ready access to the Wells for its personnel, materials and equipment. Around each of the Wells that IWC develops there shall also be a wellhead protection zone for a distance of one hundred (100) feet in all directions from the wellhead on the property. There shall be no construction permitted in any such wellhead protection zone, including, but not limited to, the construction of any golf green or fairway or other facility.

3. The South Well Field Land shall not be used by Wellingshire for any industrial, commercial or other business purpose of a type which stores, uses, produces or otherwise permits to be located on the premises noxious materials or materials which might cause contamination or pollution of the Aquifer or interfere with proper use, functioning or maintenance of the Wells. No waste, oil or other deleterious materials shall be discharged, and no trash, garbage or debris shall be dumped in or upon, the South Well Field Land or the Aquifer. Nor shall any septic or waste disposal system be installed which discharges any effluent or substance of any kind into, under or upon the South Well Field Land. No wells shall be installed by Wellingshire in or on the South Well Field Land. The South Well

Field Land shall not be used in any manner which causes or might cause contamination or pollution of the Aquifer or interfere with proper operation, functioning, or maintenance of the Wells. No fertilizers, pesticides, agrichemicals, or other substance may be applied to growing crops, lawns, gardens, or other landscaping which has not been approved by IWC and Purdue University or the Office of the Indiana State Chemist, for application in, on, or near a wellfield. The South Well Field Land shall not be excavated or mined without the written approval of IWC. Such approval will be considered only after the submission of a plan which provides for the protection and preservation of the Wells and the Aquifer. If the South Well Field Land is excavated or mined and a lake or inundated area results, IWC shall own the water in such lake or inundated area and may withdraw water therefrom without regard to the water level of the lake or inundated area. Neither Wellingshire nor any subsequent owner of the South Well Field Land shall have rights of any character with respect to the water level of the Aquifer, lake or lakes, retention ponds, or an inundated area on the South Well Field Land. It is understood that the water level in the Aquifer, lake or lakes, retention ponds, and inundated areas will fluctuate and there will be times when such water level may be higher or lower than normal, affecting nearby land, including the South Well Field Land.

Exhibit 2

4. If Wellingshire violates or causes or permits any condition to exist in violation of any of the provisions hereof, after reasonable notice, IWC may, in addition to its other remedies at law or in equity, enter upon the South Well Field Land and correct or eliminate such violation or condition and recover the cost thereof from Wellingshire.

5. IWC has committed to use reasonable care and good workmanship in the exercise of any of its rights described herein. If, however, the South Well Field Land is damaged by action of IWC, IWC will, to the extent it deems reasonably possible, repair and restore the property of Wellingshire to its previous condition, and this shall be IWC's sole obligation and Wellingshire's sole remedy arising out of any damage caused by IWC.

6. IWC has the right to release or modify in any manner not more burdensome to Wellingshire all or any part of the covenants, restrictions, easements and servitudes that are described herein, without the consent of any other party. The release or modification of all or any part of said covenants, restrictions, easements and servitudes with respect to any part of the South Well Field Land shall not affect the validity or enforceability of any of said covenants, restrictions, easements and servitudes with respect to any other part of the South Well Field Land, and a failure to enforce the same shall not constitute a waiver thereof. Any consent that may be given by

IWC to actions that would violate said covenants, restrictions, easements and servitudes must be in writing, signed by the IWC President or a Vice President thereof.

7. Wellingshire shall be responsible for all taxes and assessments imposed with respect to the South Well Field Land.

8. The undersigned person executing this deed on behalf of Waterway represents and certifies that he is a duly elected officer of Waterway and is authorized to execute and deliver this deed on Waterway's behalf; and that all necessary corporate action for the execution and delivery of this deed has been taken.

~~MADE PUBLIC RECORD~~

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SUBJECT TO FINAL ACCEPTANCE
FOR TRANSFER

58

SOUTHERN DUNES MASTER DECLARATION

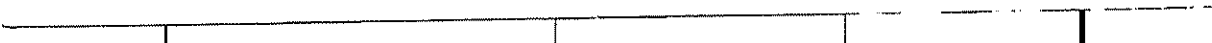
Covenants, Conditions and Restrictions
for the Southern Dunes Planned Community

Perry Township, Marion County, Indiana

and the By-Laws for the SOUTHERN DUNES HOMEOWNERS ASSOCIATIONS, INC.
An Indiana Non-Profit Corporation

12/23/98 10:33AM JOAN W. ROBERT MARION CTY RECORDER JNW 123.00 PAGES: 58

Inst # 1998-0228187



SOUTHERN DUNES MASTER DECLARATION

COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE SOUTHERN DUNES PLANNED COMMUNITY

and the By-laws for the
SOUTHERN DUNES HOMEOWNERS ASSOCIATION, INC.
An Indiana Non-Profit Corporation

This Declaration (hereinafter referred to as the "Declaration" or the "Master Declaration") is made by R.N. Thompson Development Corporation, which shall hereinafter be referred to as "Developer" or as "Declarant" and by the Wellingshire Joint Venture (consisting of R.N. Thompson Development Corporation and Waterway Holdings, Inc.), owner of the real estate subjected to this Declaration (the "Fee Owner"). The real estate which is the subject of this Declaration is located partially in Marion County, Indiana, and partially in Johnson County, Indiana and is more particularly described in "Exhibit 1" attached hereto and incorporated herein by reference (hereinafter referred to as the "Real Estate").

Declarant desires to provide for the preservation and enhancement of the value of property in the Southern Dunes community and its common areas, and, to this end, Declarant subjects the Real Estate to certain rights, privileges, covenants, restrictions, easements, assessments, charges and liens, as provided in this Declaration, for the benefit of the Southern Dunes Community and each owner of all or any part thereof.

Declarant has caused, or will cause, to be incorporated under the laws of the State of Indiana a non-profit corporation under the name "The Southern Dunes Homeowners Association, Inc.", or a similar name (hereinafter sometimes referred to as the "Corporation" or the "Association"), which shall own, maintain and administer the common areas located within the Real Estate, administer and enforce the covenants and restrictions contained in this Declaration, collect and disburse the funds of the Association, and promote the best interests of the community on behalf of the owners of the Real Estate.

This document shall be commonly known as the Southern Dunes Master Declaration, and it shall establish the covenants and conditions for the entire Southern Dunes Community as well as the By-laws for the Southern Dunes Homeowners Association. Separate declarations may be recorded for one or more residential subdivisions, including declarations of horizontal property regime (HPRs) for condominiums, and Owners within each subdivision will also be members of the association developed for their subdivision.

Declarant hereby declares that the Real Estate, and any additional real estate which is hereafter made subject to this Declaration by supplemental declaration, is and shall be held, transferred, sold, encumbered, leased, used, improved and occupied subject to the provisions, covenants, restrictions, easements, assessments and liens hereinafter set forth, all of which are declared to be in furtherance of a plan for the preservation and enhancement of the Real Estate and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Real Estate as a whole and of each of the Lots and Units situated therein.

NOTICE 1: Prior to application for an improvement location permit from the appropriate governmental agency for the construction of a residence or other structure, site plans, landscaping plans and building plans shall have been approved in writing by the Southern Dunes New Construction Committee as defined in Article 10 of this Declaration. Such approval shall include but not be limited to: building design, color and location, private drives, tree preservation, and proposed landscaping and fencing, all in accordance with the requirements of the Southern Dunes Design Guidelines.

NOTICE 2: The Southern Dunes community is located over a wellfield owned and operated by the Indianapolis Water Company ("IWC") as one of its primary sources of water. As a result, there are substantial covenants contained in the Master Declaration imposed to prevent

contamination of the soil and groundwater under this community. Those covenants, combined with other covenants, restrictions, servitudes, rights and easements imposed on IWC's behalf to protect this public water source affect the use of land in the community and prohibit certain uses that might be allowed on other property. Exhibit A to these covenants contains a description of the IWC covenants, restrictions, servitudes, rights and easements designed to protect this water supply. The land of Southern Dunes is also subject to the provisions of the Wellfield Protection Zoning Ordinance of Marion County, Indiana, added to the Code of Indianapolis and Marion County (Vol. III, App. D), and thereafter amended under Metropolitan Development Commission Docket Nos. 95-AO-6, 13A and 13B; 96-AO-6, 97-AO-1 and 10; and 98-AO-3.

NOTICE 3: Also because the Southern Dunes community is located over a wellfield, there will be substantial variations in the water level of the water retention ponds and lakes throughout this community. Included within these variations will be occasions when the water retention ponds and lakes may be completely dry or have a very low water level. Also, there will be occasions when the water level will be higher than normal, decreasing the usable portion of an owner's yard or resulting in greater water pressure against the foundation and/or basement of a residence or other building. Neither the Declarant, the Fee Owner, Indianapolis Water Company, or the Association shall be liable to any owner, occupant or other person or entity within the community for excessive water levels, for flooding, or for inadequate water levels or the absence of water in the water retention ponds and lakes throughout the Southern Dunes community.

ARTICLE 1
DECLARATION OF RESTRICTIONS AND STATEMENT OF PROPERTY RIGHTS,
MEMBERSHIP, FUNCTIONS OF THE CORPORATION, DEFINITIONS

Section 1.1 Declaration. Declarant hereby expressly declares that the Real Estate shall be held, transferred and occupied subject to these Restrictions. The Owners of any Lot, Unit or Parcel which is subject to this Declaration, and all other Persons or Entities, by acceptance of a deed or other document or form of conveyance, or any successor owner of any Lot or any Unit or of any other Parcel, or any lease or other occupancy of any portion of the Community, whether from Declarant or a subsequent Owner of such Lot, Unit or Parcel, shall conclusively be deemed to have accepted such deed, executed such contract or lease agreement and undertaken such occupancy subject to each restriction and agreement contained in this Declaration or in the Plat Covenants for the Real Estate. By acceptance of such deed, or execution of such contract, or undertaking such occupancy, each Owner and all other Persons acknowledge the rights and powers of Declarant, the Architectural Control Committee (hereinafter referred to as the "Committee") and of the Corporation with respect to these restrictions. Each Owner--for itself and its heirs, personal representatives, successors and assigns--covenants to the Declarant, the Architectural Control Committee, the Association, and the other Owners and subsequent Owners of each of the Lots and Units affected by these Restrictions, and agrees to keep, observe and comply with the terms and provisions of this Declaration.

Section 1.2 Property Rights. Every Owner shall have a right and nonexclusive easement of use, access and enjoyment in and to the Common Areas, subject to:

- (a) this Declaration as it may be amended from time to time and to any restrictions or limitations contained in any deed conveying such property to the Association;
- (b) the declaration recorded for any subdivision or condominium community in which the Lot or Unit is located;
- (c) the right of the Declarant to establish Limited Common Areas benefitting certain individuals or subdivisions within the Community;

- (d) the right of the Association to dedicate or transfer all or any part of the Common Area pursuant to this Declaration, including the right of the Declarant to deed a portion of the Real Estate to a non-profit corporation or foundation for environmental preservation purposes;
- (e) the right of the Association to enter into contracts for the purchase of electric, natural gas or other utility services, committing all owners and occupiers of land or units within the Community to purchase electric power or natural gas or such other utility services from a specific company for a fixed period of time, within the guidelines and limitations of Article 12 of this Declaration and as permitted by applicable law;
- (f) easement rights in favor of the Association to extend storm sewers, sanitary sewers and other utilities across any of the common areas;
- (g) the right of the Association to limit the number of guests who may use any recreational facilities within the Common Area, and to adopt rules regulating the use and enjoyment of the Common Area;
- (h) the right of the Association to suspend the right of an Owner to use recreational facilities within the Common Area (i) for any period during which any charge against such Owner's Lot or Unit remains delinquent, and (ii) for a period in accordance with the rules and regulations promulgated by the Board of Directors of the Association for violations of the Declaration, By-Laws or rules of the Association, after notice and a hearing pursuant to the By-Laws herein;
- (i) the right of the Association to impose reasonable and non-discriminatory membership requirements and charge reasonable and non-discriminatory admission or other fees for the use of any recreational facility situated upon the Common Area;
- (j) the right of the Association to charge fines for violations of the covenants in this Declaration or in the Plat Covenants or rules set by the Board; and
- (k) the right of the Declarant to remove or withdraw portions of the real estate from this Declaration and from the Southern Dunes community pursuant to the provisions herein.

SECTION 1.3 Functions. The Corporation has been formed for the purpose of maintaining the value and appearance of the Southern Dunes community; providing for the maintenance, repair, replacement, administration, operation and ownership of the Common Areas; enactment, administration, and enforcement of rules and regulations for use of the lots, easements and common areas of the community; enforcement of Architectural Design and Environmental Control within the community and of the Covenants for the mutual benefit of all Owners; to pay taxes assessed against and payable with respect to the Common Areas; to pay any other necessary expenses and costs in connection with the Association; and to perform such other functions as may be designated under this Declaration.

SECTION 1.4 Membership in Corporation. Each Owner of a Lot or Unit shall, automatically upon becoming an Owner, be and become a Member of the Association and shall remain a Member until such time as such ownership ceases. Membership shall terminate when such Owner ceases to be an Owner and will be transferred to the new Owner of such Lot or Unit.

SECTION 1.5 Definitions. The definitions applicable to this Declaration are as follows:

A. "Architectural Control Committee" is a Standing Committee of the Southern Dunes Board having authority and responsibility for approving all alterations, additions, improvements or changes to any lot or to any house (which is visible from the exterior), as further defined and specified in Article 10 of this Declaration.

B. "Articles" or "Articles of Incorporation" mean the Articles of Incorporation of the Southern Dunes Homeowners Association, Inc., as hereinafter defined.

C. "Commercial Unit" shall mean any parcel or development for retail, office, apartments, storage or other commercial purpose within the Southern Dunes community. As used in this Declaration, the term "Unit" shall not be interpreted to include Commercial Unit, and rules and regulations for the owners and occupants of Commercial Units shall be as specified in Article 19 of this Declaration.

D. "Common Area" means the ground designated as "Block" or as "Common Area" upon the Final Plat of each subdivision within the Southern Dunes Community, plus any streets which are not dedicated as public streets. The Common Areas of this Community shall be subject to easements for drainage and utilities, as further described and defined herein and in the Plat Covenants. Except where the context clearly indicates otherwise, the term Common Area shall be interpreted to include the Limited Common Areas. Neither the golf courses nor the private swimming pool and clubhouse (if any) will be or become a part of the common areas or a part of the Southern Dunes Community or any subdivision within the community.

Some Common Area within the individual subdivisions may be maintained by the Southern Dunes Homeowners Association and some Common Area may be maintained by the association for the subdivision. In the event that there is any confusion or ambiguity in the plats and other recorded documents regarding responsibility for maintenance and other common expenses, the Southern Dunes Homeowners Association shall decide the dispute.

E. "Common Expense" means expenses for administration of the Association, and expenses for the upkeep, maintenance, repair and replacement of the Common Areas, and all sums lawfully assessed against the Members of the Association. Common Expenses shall include, but not be limited to:

- 1) The costs of maintaining and/or replacing any common areas or structures, improvements or facilities within the common areas;
- 2) All expenses of purchasing, installing and maintaining the entryways to the community, including identification signs, lighting, plantings and landscaping;
- 3) All expenses of maintaining any security system within the Community, however, nothing in this Declaration shall require the Developer to install security gates or any other security system or, if a security system is installed, to install any particular type or design thereof;
- 4) All expenses of repair and maintenance of any private streets within the Community;
- 5) All expenses of maintaining any medians in the public streets within the Community;
- 6) Expenses of maintaining the lakes and ponds within the community, and any fountain or water circulation system within any lake or pond, however, nothing in this Declaration shall require the Developer to install a fountain or water circulation system or, if a fountain or water circulation system is installed, to install any particular type or design;
- 7) Expenses of maintaining any walking trails within the community;
- 8) Lease payments for Community street and entryway lighting, or principal and interest if financed through a loan in the name of the Association, and electricity, repair and maintenance expenses thereon, whether through a public or private utility company or through a private leasing company;
- 9) All expenses of purchasing, installing and maintaining any playground equipment or other recreational amenities owned by the Association within the Common Areas, however, nothing in this Declaration shall require the Developer to install any playground equipment or other recreational amenities or, if recreational amenities are installed, to install any particular type or design of recreational amenities;

- 10) Snow removal, if the Board of Directors determines that the Association should privately contract for snow removal for the streets and common areas of the Community;
- 11) Trash removal, if the Board of Directors determines that trash removal should be coordinated and paid for as a community expense; provided further that trash removal may be coordinated and paid for as a community expense for a portion of the Southern Dunes community and the cost thereof charged only to the owners of lots in such portions of the community;
- 12) Spraying or treatment for insects, if the Board of Directors determines that the Association should provide this service;
- 13) Costs of enforcing the rules and regulations governing the Community, including this Master Declaration, the Plat Covenants, and rules and regulations established by the Association; and
- 14) Reasonable allowances for shortfall of funds arising from late payment or non-payment of assessments, for general overruns in budget categories, and for miscellaneous expenses not budgeted under any specific category.

F. "Community" means the Southern Dunes Community, as defined in Exhibit "1" and as indicated in the preliminary layout attached as Exhibit "2"; as supplemented or altered as defined in this Declaration, and each subdivision created therein. It is intended that the Southern Dunes Community will consist of several distinct types of housing, which will be developed into separate subdivisions, and several areas of commercial development, each benefitting from shared common areas and amenities. Each subdivision within the Community will have its own Plat Covenants, and some subdivisions may also have a subdivision declaration, which will also regulate and control use of the property in that Subdivision.

G. "Condominium Unit" means one of the living units located within a subdivision of Southern Dunes that has been subjected to a Declaration of Horizontal Property Regime.

H. "Corporation" means the Southern Dunes Homeowners Association, Inc., its successors and assigns, a non-profit corporation, whose members shall be the Owners of Lots or Units in the Southern Dunes Community. The terms "Corporation" and "Association" may be used interchangeably to refer to the Southern Dunes Homeowners Association, Inc.

I. "Declarant" means R.N. Thompson Development Corporation, or its successors and assigns, as developer of the Southern Dunes community. The terms "Declarant" and "Developer" may be used interchangeably.

J. "Fee Owner" means the Wellington Joint Venture, a joint venture between Waterway Holdings, Inc., a wholly owned subsidiary of IWC Resources Corp., and R.N. Thompson Development Corporation.

K. "Golf Course" shall mean all or any portion of the golf courses located within the geographical boundaries of the Southern Dunes Community. Notwithstanding any other provision herein or in any of the plats or plat covenants, the golf courses -- including championship courses, the par 3 course, the golf academy and driving range and related golf facilities, if any -- shall be privately owned, shall not be subject to this Declaration, and shall not be a part of the common areas of this Community or of any subdivision within this community.

L. "Lake" or "Pond" shall mean a water retention pond, the primary purpose of which is to accommodate storm water from the Southern Dunes Community, the golf course, and surrounding property. The terms "lake" and "pond" may be used interchangeably herein. Use of any lake or pond shall be prohibited or limited as specified herein or as determined by the Southern Dunes Board.

M. "Lot" means each Lot of a recorded plat for the Southern Dunes community.

N. "Mortgagee" means the holder of a first mortgage lien on a Lot or a Unit.

O. "New Construction Committee" is a committee, or perhaps an individual, appointed by the Developer to review, and approve or reject, all construction plans, including, but not limited to, site plans, blueprints, specifications of materials, soil and natural landscaping preservation plans, landscape plans, and utility plans for all new construction within the Southern Dunes Community. After the completion of initial construction of a residence on each lot and the completion of all planned multi-unit structures within the Southern Dunes Community, or sooner as determined in the sole discretion of the Declarant, the Declarant may assign the New Construction review responsibilities to the Architectural Control Committee.

P. "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, owning the fee simple title to a Lot or any Unit as defined herein.

Q. "Plat Covenants" mean the plat covenants recorded for each subdivision within the Southern Dunes Community, or each section of a subdivision.

R. "Subdivision Declaration" means a Declaration of Covenants, Conditions and Restrictions or a Declaration of Horizontal Property Regime recorded for one or more subdivisions within the Southern Dunes Community. Any Owner or other person who is within a subdivision having a declaration shall also be subject to the subdivision declaration in addition to this Declaration.

S. "Unit" means a condominium unit or another type of attached dwelling unit, intended for individual ownership. "Unit" does not include "Commercial Unit" as defined herein.

ARTICLE 2. OWNERSHIP AND USE OF THE COMMON AREAS

SECTION 2.1 Ownership. The Common Area shall be owned by the Corporation and shall be held for the use and enjoyment of the Members, which right shall pass with title to every Lot and with title to every Unit, subject to the provisions of this Declaration. Once the Common Area has been deeded to the Corporation, it may not be mortgaged or conveyed without the consent of at least two thirds of the Owners (excluding the Developer). Also, as long as Class B membership exists, the Common Area may not be mortgaged or conveyed without the prior written approval of FHA/VA, and, as long as the Developer owns any real estate in the Southern Dunes community, without the prior written approval of the Developer.

The common area in each section of the Southern Dunes community shall be deeded to the Corporation, free and clear of all encumbrances, at the time that the plat for such section is recorded with the county Recorder. The responsibility and expense of maintenance of such common areas shall also pass to the Corporation at the time that the plat for each section is recorded. The Common Area shall be owned by the Corporation and shall be held for the use and enjoyment of the Members, which right shall pass with title to every Lot and with title to every Unit, subject to the provisions of this Declaration.

SECTION 2.2 Limited Common Areas. The Declarant shall have the right to create Limited Common Areas for the use and benefit of individual owners or subdivisions within the Southern Dunes Community, if Declarant determines, in its sole discretion, that certain amenities or services should be available only to portions of the Community. In addition, the Declarant shall have the right to exclude certain portions of the Community, or certain owners or subdivisions, from both the benefit and the expense of certain amenities or services provided to the remainder of the community. Assessments for owners either benefitting from Limited Common Areas, amenities or services, or excluded from amenities or services, shall be adjusted to reflect the

additional costs or savings from the Limited Common Area or added or excluded amenities or services.

SECTION 2.3 Easement for Utilities and Public and Quasi Public Vehicles. All public and quasi public vehicles including, but not limited to, police, fire and other emergency vehicles, public works, trash and garbage collection, post office vehicles and privately owned delivery vehicles shall have the right to enter upon the driveways and roadways of the Common Areas and the designated easements within the Community in the performance of their duties. All such easements for public and quasi public vehicles shall be subject to reasonable and non-discriminatory safety rules established by the Association.

An easement is also granted to all utilities and their employees and agents for ingress, egress, installation, replacement, repairing and maintaining of such utilities, including but not limited to water, sewers, gas, telephone, electricity and cable television within the Community; provided, however, nothing herein shall permit the installation of sewers, electric lines, water lines or other utilities, except as initially designed and approved on the Plat or as thereafter may be approved by the Board of Directors. Both the Declarant and the Association shall have the authority, including a power of attorney coupled with an interest, from each Owner within the Southern Dunes Community to grant additional utility easements, which may traverse the property, including property within the description of any Subdivision within Southern Dunes, except within the boundaries of any Lot sold to an Owner. Utilities and others using these easements shall be required to repair and correct any damage caused by their ingress, egress, inspection, installation, replacement, repairing and maintenance of utilities.

SECTION 2.4 Easement for Association. An easement is also granted to the Corporation, its officers, agents and employees and to any management company selected by the Corporation to enter in or to cross over the Common Areas, Limited Common Areas, and Easements to perform its duties.

SECTION 2.5 Water Retention Lakes and Ponds. One or more water retention areas which may be identified as a lake or which may not be shown but are located within a "Block", shall be a part of the Common Area of the Association. Such Retention Lakes shall be for the purpose of accepting and storing storm water and drainage from the Southern Dunes Community, the golf course, and surrounding areas. Neither the Declarant nor the Association shall be responsible for assuring or maintaining any minimum or maximum level of water in such areas.

NOTICE: Because the Southern Dunes community is located over a wellfield, there will be substantial variations in the water level of the water retention ponds and lakes throughout this community. Included within these variations will be occasions when the water retention ponds and lakes may be completely dry or have a very low water level. Also, there will be occasions when the water level will be higher than normal, decreasing the usable portion of an owner's yard or resulting in greater water pressure against the foundation and/or basement of a residence or other building.

The Association, through its Board of Directors, shall be responsible for maintaining any portion of the banks of each lake which are not part of a private lot, and shall maintain the lakes to such degree as it determines is necessary and appropriate and shall control access and recreational use of the lakes. In the event that a lake which is a part of the golf course or swimming pool and related club facilities as described in Section 2.10 below also accepts the storm water of homeowners, in the judgment of the Declarant, the Association shall pay a pro-rata portion of the costs of maintenance of such lake, including taxes, insurance, repairs and maintenance.

Since the primary purpose of the lakes and ponds is to accept and hold the storm water drainage of the entire Community, all expenses relating to the lakes and ponds will be a common expense of the entire Association,

divided as any other common expense, notwithstanding the fact that some owners may also benefit from the aesthetics or recreational use thereof.

The owner of the golf course shall have an easement to drain its storm water into the lakes and drainage system of the Southern Dunes Community to the extent approved by the Declarant, or after the Authority Transfer Date, as approved by the Board. However, commitments made by the Declarant prior to the Authority Transfer Date must be honored by the Association thereafter. Lakes which are owned by the golf course will be maintained by the golf course owner and will not be subject to the control or regulation of the Association.

SECTION 2.6 Non-Liability of Declarant. Declarant shall not have any liability to an Owner or to any other Person with respect to drainage on, over or under a Lot; for erosion of a Lot; with respect to loss or absence of water in any lake or pond; or for excessive water tables causing problems to basements or foundations of any residence or other building or the loss of any usable yard area. Drainage and erosion control shall be the responsibility of the Owner of the Lot and (during construction) of the builder. An Owner, by acceptance of a deed to a Lot, Unit or Commercial Unit, shall be deemed to agree to indemnify and hold Declarant harmless and free from and against any and all liability arising from, related to, or in connection with the erosion of or drainage on, over and under the Lot described in such deed or with respect to loss or absence of water or excessive water tables. Declarant shall have no duties, obligations or liabilities hereunder except such as are expressly assumed by Declarant, and no duty of, or warranty by, Declarant shall be implied by or inferred from any term or provision of this Declaration.

SECTION 2.7 Non-Liability of Waterway Holdings. Waterway Holdings, Inc. shall not have any liability to an Owner or to any other Person with respect to drainage on, over or under a Lot; for erosion of a Lot; with respect to loss or absence of water in any lake or pond; or for excessive water tables causing problems to basements or foundations of any residence or other building or the loss of any usable yard area. An Owner, by acceptance of a deed to a Lot, Unit or Commercial Unit, shall be deemed to agree to indemnify and hold Waterway Holdings harmless and free from and against any and all liability arising from, related to, or in connection with the erosion of or drainage on, over and under the Lot described in such deed or with respect to loss or absence of water or excessive water tables. Waterway Holdings shall have no duties, obligations or liabilities hereunder except such as are expressly assumed by it, and no duty of, or warranty by, Waterway Holdings shall be implied by or inferred from any term or provision of this Declaration.

SECTION 2.8 Street Lighting. The Declarant may, but shall not be required to, erect street lights in the entrances, in any drainage, landscape, or utility easement, in any intersection, or along any street within the Southern Dunes community. Street lights may be purchased, leased from a private contractor or may be provided by the electric utility company serving the community. Lease payments or payments to the electric utility company and all maintenance and repair costs shall be expenses of the Southern Dunes Homeowners Association.

SECTION 2.9 Community Walls. The Declarant may, but shall not be required to, erect community walls constructed of masonry or other materials, to identify the Southern Dunes community, various subdivisions within the community, or for other purposes. These walls may be constructed in any landscape easement or in any common area. Once constructed, maintenance of the walls will be a common expense of the Homeowners Association, unless otherwise determined by the Declaration for the subdivision or the plat covenants for the subdivision in which the wall is located.

SECTION 2.10 Golf Course and Other Amenities Which are Not Common Areas. The Declarant may, but shall not be required to, develop a private swimming pool and related facilities (tennis courts, clubhouse, etc.) on

private land within or adjacent to the Southern Dunes Community. In addition, Declarant intends to develop a golf course within the Southern Dunes Community, which is discussed in further detail in Article 13 of this Declaration. In no event will the golf course or the private swimming pool and related club facilities be or become a part of the common areas of the Southern Dunes Community, and no Owner of a Lot or a Unit will be entitled to any rights or privileges, or any membership guarantees or discounts, to any such golf course, swimming pool or related club facilities as a result of their ownership of a Lot or Unit in the Southern Dunes Community.

ARTICLE 3. CLASSES OF MEMBERSHIP

SECTION 3.1 Voting Rights. The Corporation shall have two (2) classes of membership. Class A members shall be all Owners of Lots or Units in the Southern Dunes Community other than the Declarant.

The Declarant shall be a Class B member for each Lot or Unit titled in its name or in the name of the fee owner and for each lot or unit planned within the Community. The Southern Dunes Community is presently zoned for a total maximum of 2505 units, and this shall be the starting figure for units in the name of the Declarant. This figure shall be reduced by sales of lots or units by Declarant, property withdrawn from this Declaration, or the recording of plats having fewer than the maximum number of lots or units permitted by the zoning approved for this Community. In addition, any builder authorized by Declarant shall also be a Class B member of any lots or units owned by such builder.

SECTION 3.2 Class A Members. Each Class A Member shall be entitled to one (1) vote for each Lot or Residential Unit of which such Member is the Owner. When more than one person constitutes the Owner of a particular Lot or Unit, all such persons shall be Members of the Corporation, but all of such persons shall cumulatively have only one (1) vote for such Lot or Unit, which vote shall be exercised as they among themselves determine. No vote may be divided.

SECTION 3.3 Class B Member. The Class B Member shall have five (5) votes for each Lot or Dwelling Unit planned within Southern Dunes, designated on the preliminary layout attached as Exhibit "2", and any additions or revisions thereto prior to the Authority Transfer Date, of which it is the Owner.

Attached hereto as Exhibit "3" is a preliminary designation of votes attributable to the Declarant for each of the planned sections of the Southern Dunes Community, which may be amended by the Declarant at any time prior to the Authority Transfer Date by recording a Supplement to the Declaration, as further provided in Sections 21.1 and 21.2.

ARTICLE 4. INITIAL MANAGEMENT AND CONTROL BY DEVELOPER

SECTION 4.1 Definition of "Authority Transfer Date". Class B membership shall terminate and become converted to Class A membership (the "Authority Transfer Date"), upon the happening of the earliest of the following:

- (a) when the total of all Class A votes exceed the total of all Class B votes; or
- (b) January 31, 2020; or
- (c) when, in its discretion, the Declarant so determines and provides sixty days notice to the members.

SECTION 4.2 Prior to the Authority Transfer Date. Prior to the Authority Transfer Date as defined above, the Declarant shall appoint all members to the Board of Directors of the Corporation and shall have full authority to establish rules and regulations for the Corporation and for the

Community. Directors appointed by the Declarant shall serve at the will of the Declarant and shall be considered Owners of the Corporation only for the purpose of serving on the Board.

The Board of Directors, prior to the Authority Transfer Date, shall not be required to hold Meetings, and if Meetings are held, they shall not be required to be held in public, and notice to other Owners shall not be required. In addition, prior to the Authority Transfer Date, the Board of Directors shall not be required to seek owner approval of the budget or the annual assessments.

SECTION 4.3 Assessments. Prior to the Authority Transfer Date, the Declarant shall establish the amount and payment terms of Assessments. The Regular Assessments, including management fees and contributions towards the replacement reserve fund, shall not exceed Twenty five Dollars (\$25.00) per month, per lot or per unit, in the first year after this Declaration is filed, with increases of not more than ten percent (10%) per year (cumulatively) thereafter. **HOWEVER, THIS LIMITATION IS ONLY FOR THE COMMUNITY ASSESSMENT AND SUBDIVISION ASSESSMENTS MAY ALSO BE IMPOSED.**

SECTION 4.4 Declarant's Obligation to Pay Assessments. Prior to the Authority Transfer Date, the Declarant shall not be obligated to pay any management fee, contribution towards the replacement reserve fund for the Corporation, or any assessment of any kind or nature, as further defined in Section 11.3.

SECTION 4.5 Builder's Obligations. The Declarant shall have the authority to require any person or company building a home on any Lot to escrow an amount up to five percent (5%) of the anticipated construction cost to assure proper completion of construction, regular and continual clean up of construction debris and the construction site, and periodic street cleaning of the Community. However, imposition of this escrow requirement and enforcement of these requirements shall be within the sole discretion of the Declarant, and no Owner shall have any rights against the Declarant or to require an escrow to be deposited or to require clean up by any builder.

Prior to the Authority Transfer Date, home builders authorized by the Declarant will not be required to pay any assessments to the Association.

SECTION 4.6 The Architectural Control Committee. Until thirty days after the Declarant has sold the last Lot or Unit in Southern Dunes as shown in Exhibits "1" and "2", and any additions to Southern Dunes as defined in Section 4.8, 21.1, and 21.2 hereof, the Declarant shall have the right to appoint all members of the Architectural Control Committee. However, the Declarant may elect, from time to time, to transfer authority of the Architectural Control Committee to the owners (with or without also transferring authority for the New Construction Committee) prior to this time.

SECTION 4.7 Initial Management. Notwithstanding anything to the contrary contained in this Declaration, Declarant shall have the exclusive right to manage or designate a Managing Agent for the Real Estate and Common Areas and to perform all or any portion of the functions of the Corporation until the Authority Transfer Date. Declarant may, at its option, engage the services of a Managing Agent, including a Managing Agent affiliated with Declarant, to perform such functions and, in either case, Declarant or such Managing Agent shall be entitled to reasonable compensation for its services. Declarant's contract with the managing agent shall be for a term of not more than three years, providing for early cancellation by Declarant, without cause and without penalty, with not more than 60 days prior notice.

SECTION 4.8 Declarant's Authority to Add Additional Sections. The Declarant may, at any time prior to the Authority Transfer Date, supplement the property subject to this Declaration, with all or any portion of the real estate identified in Exhibit "2" pursuant to the provisions of Section 21.1, by filing an amended Exhibit "1", which additional real estate shall automatically be subject to this Declaration and the Owners of Lots of such additional real estate shall automatically become members of

the Association. In addition, as provided in more detail in Section 21.2, the Declarant may, at any time prior to the Authority Transfer Date, add additional real estate to the Southern Dunes community including additional lots or land for additional units, or land for additional common area, so long as such real estate is contiguous to real estate identified in Exhibit "2" and so long as such real estate is, or will in the future, be contiguous to platted and developed real estate within the Southern Dunes community. In the event that additional real estate is added by Declarant, the votes attributable to the Lots in such new preliminary layouts or platted sections shall be counted for purposes of voting rights and for all other purposes from the date of the recording of the amended Exhibit "2", or the Plat for such additional Section.

SECTION 4.9 Developer and Builder Signs Within the Community.

Notwithstanding any other provision in this Declaration or in any Plat Covenants regulating signs, the Declarant, and any builder with written authority from the Declarant, at any time before the sale of the last lot or Unit within the Southern Dunes Community, may place identification, sales promotion and advertising signs in landscape easements, common areas, and on lots or parcels owned by Declarant or by said builders, of such size and quantity as Declarant, in its sole discretion, shall approve.

SECTION 4.10. Consent of HUD/VA. Notwithstanding any other provision in this Declaration to the contrary, so long as Class B membership exists, annexation of additional properties, dedication of Common Area, and amendment of the Declaration shall require HUD/VA prior approval. Further, so long as Class B membership exists, the Corporation's By-laws may not be amended without HUD/VA approval.

ARTICLE 5. OWNERS MEETINGS

SECTION 5.1 Annual Meeting. The annual meeting of the Southern Dunes Owners shall be held at such date and time as the Board of Directors shall determine, beginning on the first annual meeting date after the Authority Transfer Date, for the purpose of electing directors, approving an Annual Budget and Regular Assessment and for the transaction of such other business as may come before the meeting. Prior to the Authority Transfer Date, the Board of Directors shall not be required to hold annual or other meetings with the Owners.

SECTION 5.2 Special Meetings. Special meetings of the Owners may be called for any legal purpose by the President or by the Board of Directors, and, after the Authority Transfer Date, shall be called by the President at the request of at least Twenty percent (20%) of the Owners or One hundred (100) Owners, whichever is less.

SECTION 5.3 Place of Meeting. The Board of Directors shall designate the place of the meeting. The Board may designate that any meeting of Owners take place at any suitable location within five (5) miles of the Community.

SECTION 5.4 Notice of Meeting. Written notice, stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered to each Owner not less than ten (10) days before the date of the meeting, either personally or by mail, by or at the direction of the President. Unless an Owner provides the Secretary of the Corporation with written instructions to the contrary, notice may be sent or delivered to the address of the Lot or Unit. Notice contained in a newsletter or other general correspondence shall meet the notice requirement of this section if it is sent or delivered to each Owner as provided herein.

SECTION 5.5 Quorum. Twenty percent (20%) of the Owners or One Hundred (100) Owners, whichever is less, represented in person or by proxy, shall constitute a quorum at a meeting of Owners. In the event that a quorum is not present, the meeting may be adjourned to another date and time, with or

without further notice, or the meeting may be kept open until a quorum has been attained, as determined by the Board.

SECTION 5.6 Proxies. At all meetings of Owners, an Owner may vote in person or by written proxy, executed by the Owner or by a duly authorized attorney-in-fact. Such proxy shall be filed with the secretary of the corporation before or at the time of the meeting. Every proxy shall be specific for an Annual or Special Meeting of Owners, or its adjourned date, unless otherwise provided in the proxy.

SECTION 5.7 Voting. Each Lot or residential Unit shall be entitled to one vote upon each matter submitted to a vote at a meeting of Owners. For voting purposes, each Lot shall be considered to be a Unit, and each condominium unit or other attached residential Unit shall be considered to be a Unit.

SECTION 5.8 No Cumulative Voting. Cumulative voting shall not be permitted. Each Owner may only cast one vote per Lot or Unit for any candidate for any Office, even though multiple positions are open for such Office. However, voting shall be separated into subdivisions as described in Section 6.2.

SECTION 5.9 Voting by Mail-In Ballot. The Board may determine that one or more issues be voted upon by mail-in ballot, either in conjunction with an Annual or Special Meeting or as a substitute for the holding of a Meeting. In the event that the Board elects to permit mail-in ballots, ballots shall be mailed or delivered to each Owner at least 14 days prior to the deadline for voting and at least one third (1/3) of all Owners must vote in order for the vote to count. If a one third vote has not been achieved by the deadline, the Board of Directors or persons designated by the Board may contact additional Owners at their choosing until a one third vote has been achieved. However, if a one third vote has been achieved by the deadline, no votes received after the stated deadline may be counted.

SECTION 5.10 Qualification of Directors. Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner or a partner or an officer or trustee shall be eligible to serve on the Board of Directors, except that no single Lot or Unit may be represented on the Board of Directors by more than one person at a time and except that the Declarant may have multiple representatives serving on the Board of Directors.

ARTICLE 6. BOARD OF DIRECTORS

SECTION 6.1 General Powers. The business and affairs of the corporation shall be managed by its Board of Directors. No person shall be eligible to serve as a member of the Board of Directors unless he or she is an Owner as defined herein.

SECTION 6.2 Number, Tenure and Qualifications. The initial number of directors of the corporation shall be three (3). The corporation may have not less than three directors. After the Authority Transfer Date, each director shall hold office until the next annual meeting of Owners and until his or her successor shall have been elected and qualified.

After the Authority Transfer Date, the Owners shall be allowed to elect directors to the Board according to the number of units or lots in each Subdivision, as follows:

0 - 10 units	= 0 representatives
11 - 150 units	= 1 representative
151 - 300 units	= 2 representatives
301 or more units	= 3 representatives

For purposes of Board representation, Subdivisions shall be defined as all Lots or Units operating under each named Subdivision, as amended from time to time. Owners in any Subdivision having ten or fewer units, or which are otherwise without representation, may petition the Board for inclusion into

another Subdivision or for independent or "at large" representation.

SECTION 6.3 Regular Meetings. The Board of Directors may provide, by resolution, the time and place for the holding of regular meetings to be held without notice, so long as the first such meeting is with notice, and all directors receive notice of the resolution.

SECTION 6.4 Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or a majority of the directors. The person calling the special meeting may fix the time for holding such meeting of the Board of Directors, and, unless consented to by all Directors, the special meeting shall be held within five miles of the Southern Dunes Community.

SECTION 6.5 Notice. Notice of any special meeting shall be given at least three days in advance by written notice delivered personally, by telegram or by other electronic means, or at least seven days in advance if notice is mailed. The attendance of a director at a meeting shall constitute a waiver of notice, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened.

SECTION 6.6 Quorum. A least one third (1/3) of the number of directors eligible to attend and vote shall constitute a quorum for the transaction of business at any meeting of the Board of Directors.

SECTION 6.7 Manner of Acting. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors. The written consent of absent directors may be obtained and used to validate actions taken at a meeting where a quorum was not present or where an insufficient vote was obtained.

SECTION 6.8 Action Without A Meeting. Any action that may be taken by the Board of Directors at a meeting may be taken without a meeting if a consent in writing setting forth the action to be taken shall be signed by at least two thirds of the Directors.

SECTION 6.9 Term of Office and Vacancy. Each member of the Board of Directors shall be elected for a term of three (3) years, which terms shall be staggered so that the terms of approximately one-third (1/3) of the members of the Board shall expire annually. Each Director shall hold office throughout the term of his election and until his successor is elected and qualified. Unless a Director is removed by the Owners under Section 6.10, any vacancy occurring in the Board shall be filled by a vote of a majority of the remaining members of the Board, by a person representing the Subdivision for which the vacancy exists. The Director filling a vacancy shall serve until the next annual meeting of the Owners and until his successor is elected and qualified.

SECTION 6.10 Removal of Directors. A Director may be removed with or without cause by a majority vote of the Owners, at a meeting duly called for such purpose. In such case, his successor shall be elected at the same meeting, to serve until the next annual meeting.

SECTION 6.11 Duties of the Board of Directors. The Board of Directors shall be the governing body of the Association representing all of the Owners and being responsible for the functions and duties of the Corporation, including, but not limited to, the management, maintenance, repair, upkeep and replacement of the Common Area and the Limited Common Area and the collection and disbursement of the Common Expenses. The Board shall also maintain, through employees, contractors or agents, all landscaping easements throughout the Southern Dunes Community.

SECTION 6.12 Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonable and necessary to accomplish their duties. These powers include, but are not limited to, the power:

- (a) to promulgate, adopt, revise, amend and alter from time to time such additional rules and regulations (in addition to those set forth in this Declaration) with respect to use, occupancy, operation and

enjoyment of the Common Area as the Board, in its discretion, deems necessary or advisable; provided, however, that copies of any such additional rules and regulations so adopted by the Board shall be promptly delivered or mailed to all Owners;

(b) to grant permits, licenses and easements over the Common Area for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of Southern Dunes;

(c) to regulate any other properties which are subject to this Declaration; and

(d) to exercise all of the rights and powers of the Association.

SECTION 6.13 Limitation on Board Action. The authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than \$10,000.00, which sum shall be increased annually by the increase, if any, in the Consumer Price Index (CPI) or its successor index, without obtaining the prior approval of the Owners, except that in the following cases such approval shall not be necessary:

(a) contracts for replacing or restoring portions of the Common Area damaged or destroyed by fire or other casualty where the cost thereof is payable out of insurance proceeds actually received;

(b) contracts for expenditures included in the annual budget; and

(c) expenditures necessary to deal with emergency conditions where the Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

SECTION 6.14 Compensation. No Director shall receive any compensation for services without the express approval of the Owners. The Managing Agent, if one is employed, shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

SECTION 6.15 Non-Liability of Directors. The Directors shall not be liable to the Owners or any other persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, bad faith or gross negligence. The Corporation shall indemnify, hold harmless and defend each of the Directors against any and all liability to any person, firm or corporation arising out of actions or contracts by the Board on behalf of the Corporation, unless any such action or contract shall have been made in bad faith, or as the result of willful misconduct or gross negligence.

SECTION 6.16 Additional Indemnity of Directors. The Corporation shall indemnify, hold harmless and defend any person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he is or was a Director of the Corporation, against the reasonable expenses, including attorney's fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as to matters in which it shall be adjudged in such action, suit or proceeding that such Director is liable for willful misconduct, bad faith or gross negligence in the performance of his or her duties. The Corporation shall also reimburse any such Director the reasonable costs of settlement of or judgment rendered in any action, suit or proceeding, if it shall be found by a majority vote of the Owners that such Director was not guilty of willful misconduct, gross negligence or bad faith. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director, no Director shall be considered or deemed to be guilty of or liable for gross negligence or willful misconduct in the performance of his or her duties where, acting in good faith, such Director relied on the books and records of the Corporation or statements or advice made by or prepared by the Managing Agent (if any) or any officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Corporation to render advice or service, unless such Director had actual knowledge of the falsity or incorrectness thereof; nor shall a Director be deemed guilty of or liable for negligence or

misconduct by virtue of the fact that he or she failed or neglected to attend a meeting or meetings of the Board of Directors.

SECTION 6.17 Non-Liability of Officers and Committee Members. The provisions of Sections 6.15 and 6.16 shall also apply to Officers and Committee Members, including, without limitation, members of the Architectural Control Committee and the New Construction Committee.

SECTION 6.18 Professional Management. The Board of Directors shall employ a professional management company or agent to assist it in its responsibilities (herein called the "Managing Agent"). The Managing Agent shall perform such duties and responsibilities as the Board shall designate. The management agreement may be for a term of three (3) years or less and shall terminate upon not more than sixty (60) days written notice by either party.

SECTION 6.19 Bond. The Board of Directors shall provide blanket fidelity bonds for the Managing Agent, the treasurer of the Corporation, and such other officers or directors of the Corporation that handle or are responsible for funds, indemnifying the Corporation against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors (provided, however, in no event shall the aggregate amount of the bond be less than a sum equal to one fourth of the aggregate annual assessments on all Lots and Units) and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. Fidelity bonds shall name the Corporation as an obligee and shall contain waivers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. Such bonds shall provide that they may not be cancelled or substantially modified for any reason without at least thirty (30) days prior written notice to the Board. The expense of any such bonds shall be a Common Expense.

ARTICLE 7. OFFICERS

SECTION 7.1 Number. The officers of the corporation shall be a President, a Secretary and a Treasurer, each of whom shall be elected by the Board of Directors. The corporation may also have one or more Vice Presidents. The President, Vice Presidents, Secretary and Treasurer shall all be members of the Board. Such other officers and assistant officers, who need not be Directors, may be elected or appointed by the Board of Directors.

SECTION 7.2 Election and Term of Office. The officers of the corporation shall be elected annually by the Board of Directors, after the Authority Transfer Date, at the first meeting of the Board held after each annual meeting of the Owners. If the election of officers is not held at such meeting, such election shall be held as soon thereafter as conveniently possible. Each officer shall hold office until a successor shall have been duly elected and qualified or until their death, resignation or removal as hereinafter provided.

SECTION 7.3 Removal. Any officer or agent may be removed by the Board of Directors whenever, in its judgment, the best interests of the corporation will be served thereby.

SECTION 7.4 President. The President shall be the principal executive officer of the corporation and, subject to the control of the Board of Directors, shall supervise and direct all of the business and affairs of the corporation. The President shall, when present, preside at all meetings of the Owners and of the Board of Directors. The President shall, in general, perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

SECTION 7.5 Vice President. Vice Presidents of the Corporation shall fulfill such duties as the Board of Directors or the President shall direct.

A Vice President shall not serve in the capacity of the President, other than presiding at a duly called meeting at which the President is absent, unless the President so directs in writing.

SECTION 7.6 Secretary. The Secretary shall: (a) keep the minutes of the proceedings of the Owners and of the Board of Directors in the corporate minute book; (b) see that all notices are duly given in accordance with the provisions herein or as required by law; (c) be custodian of the corporate records; (d) keep a register of the post office address of each Owner, as furnished by the Owner and of each Mortgagee, as furnished by the Owner or Mortgagee; and (e) in general, perform all duties incident to the office of Secretary and such other duties as may be assigned by the President or by the Board of Directors.

SECTION 7.7 Treasurer. The Treasurer shall: (a) have charge and custody of, and be responsible for, all funds of the corporation; (b) receive and give receipts for monies due and payable to the corporation and deposit all such monies in the name of the corporation in such banks, trust companies or other depositories as shall be selected by the Board of Directors; and (c) in general, perform all of the duties incident to the office of Treasurer and such other duties as are assigned by the President or by the Board of Directors.

SECTION 7.8 Delegation of Duties. The duties of the Secretary and the Treasurer and the ministerial functions of any other officer or committee member may be delegated to the Managing Agent of the Association, if any, so long as the responsible officer or committee member is regularly advised of the actions taken and generally supervises the actions taken by the Managing Agent on their behalf.

ARTICLE 8. CONTRACTS, LOANS, CHECKS AND DEPOSITS

SECTION 8.1 Contracts. The Board of Directors may authorize any officer or officers, managing agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances.

SECTION 8.2 Loans. No loans shall be contracted on behalf of the corporation and no indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

SECTION 8.3 Checks, Drafts, Etc. All checks, drafts or other orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the corporation, shall be signed by such officer or officers, agent or agents of the corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors.

SECTION 8.4 Deposits. All funds of the corporation not otherwise employed shall be deposited from time to time, in interest bearing or non-interest bearing accounts, to the credit of the corporation in such banks, trust companies or other depositories as the Board of Directors may select. Funds of the corporation may also be invested in government obligations or other commercial paper rated AAA or its equivalent. Funds deposits or investments shall not be committed for a period of more than one year.

ARTICLE 9. TAXES, MAINTENANCE OF COMMON AREAS, MAINTENANCE OF INDIVIDUAL LOTS

SECTION 9.1 Real Estate Taxes. Real estate taxes for individual lots and parcels are to be separately assessed and taxed to each Lot or parcel, and paid by the title owner thereof. Any real estate taxes or other assessments which are separately assessed against the Common Area shall be paid by the Corporation and treated as a Common Expense. Any real estate taxes or other

assessments which are separately assessed against any Limited Common Area shall be paid by the Corporation and treated as a Common Expense for the subdivision, lots or units benefitted by such limited common area.

SECTION 9.2 Maintenance, Repairs and Replacements to the Common Areas. Maintenance, repairs, replacements and upkeep of the Common Area shall be furnished by the Corporation, as a part of its duties, and the cost thereof shall constitute a part of the Common Expenses. Maintenance, repairs, replacements and upkeep of any Limited Common Area shall be furnished by the Corporation (or, if a separate corporation is created for a subdivision solely or primarily benefitted by the Limited Common Area, by such subdivision corporation), as a part of its duties, and the cost thereof shall constitute a part of the Common Expenses for the lots or units benefitted by such limited common area.

SECTION 9.3 Maintenance of Individual Lots and Units by the Owner. Except as otherwise provided in a subdivision declaration or plat covenants pertaining to a Lot or Unit, any repairs required to an Owner's residence shall be the Owner's responsibility and the Owner's expense. If any Owner shall fail to maintain and keep his property or any part thereof in a good, clean and sanitary condition, with an exterior appearance up to the general standards of the Southern Dunes community, the Corporation may perform any work necessary and charge the Owner thereof for such cost, which shall be immediately due, secured by the Corporation's lien on the Owner's property, and otherwise collectable as an assessment pursuant to Section 11.9 of this Declaration.

Each Owner, by his acceptance of a deed to any Lot, irrevocably grants to the Corporation, its agents and employees, the right to enter upon, across and over the Lot owned by such Owner under such conditions as are reasonably necessary to effect the maintenance, cleaning, repair or other work permitted herein.

SECTION 9.4 Damage to or Abuse of Common Areas and other Areas Maintained by the Association. If, due to the willful, intentional or negligent acts or omissions of an Owner, or of a member of the Owner's family, or of a guest, tenant, invitee or other occupant or visitor for whom the Owner is legally responsible, damage is caused to Common Areas, Limited Common Areas, or to portions of Lots or land maintained by the Association, or if additional maintenance or repairs are required as a result of such acts, the Owner shall be required to pay for such damage or additional expense. Upon demand by the Board, the cost of such repairs shall be immediately due and payable, secured by the Corporation's lien on the Owner's property, and otherwise collectable as an assessment pursuant to Section 11.9 of this Declaration.

SECTION 9.5 Security. The Association may, but shall not be obligated to, maintain or support certain activities within Southern Dunes designed to make the community safer than it otherwise might be. Neither the Association, the Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within Southern Dunes, however, and neither the Association, the Declarant, nor any Successor Declarant shall be held liable for any loss or damage by reason or failure to provide adequate security or ineffectiveness of security measures undertaken. All Owners and Occupants of any Lot or Unit, and tenants, guests and invitees of any Owner, as applicable, acknowledge that the Association and its Board of Directors, Declarant, or any Successor Declarant and the Committee do not represent or warrant that any security system will be installed or that any security system which is implemented or installed by the Declarant or the Board will be effective in any or all situations. All Owners and Occupants of any Lot or Unit, and tenants, guests and invitees of any Owner hereby release the Declarant and the Board from any liability for security efforts or for failure to implement security in the Community.

ARTICLE 10. ARCHITECTURAL CONTROL

SECTION 10.1 Purposes. The Architectural Control Committee (also referred to herein as the "Committee") shall regulate the external design, appearance, use and location of improvements on the Real Estate in such manner as to preserve and enhance values and to achieve and maintain a harmonious relationship of architectural design, structural improvements, landscaping, and the natural vegetation and topography.

SECTION 10.2 Architectural Control Guidelines. The Board of Directors shall have the authority to establish, amend and revoke Architectural Control Guidelines for the Community and the Association, which shall be binding upon all Owners and all others who in any way use, occupy or benefit from the Community, or any part thereof. The Architectural Control Guidelines shall not be inconsistent with any covenant in this Declaration or in the Plat Covenants and shall not be retroactively applied. There may be different Architectural Guidelines for different subdivisions within the Southern Dunes Community. The initial Architectural Control Guidelines, if attached hereto, are for convenience only and are not incorporated herein. The Architectural Control Guidelines may be enforced by the Architectural Control Committee or by the Board of Directors.

The Architectural Guidelines for each subdivision shall be established and amended by the Declarant, in its sole discretion, prior to the Authority Transfer Date. After the Authority Transfer Date, any amendments to the Architectural Guidelines shall be approved by a two thirds majority vote of the Owners to be affected thereby at any meeting at which a quorum of such owners is present or by mail in vote, as provided in Article 6 hereof. All affected owners shall receive notice of any amendments to the Architectural Guidelines within a reasonable time after their enactment.

SECTION 10.3 New Construction Committee. The New Construction Committee shall consist of one or more persons appointed by the Developer to review, and approve or reject, all plans for new construction of residences constructed on any Lot or any Unit, and any other structures, including, but not limited to, site plans, blueprints, specifications of materials, exterior colors, soil and natural landscaping preservation plans, landscape plans, and utility plans for all new construction within the Southern Dunes Community. The New Construction Committee shall have authority over any changes during initial construction of a new residence, prior to initial occupancy, and the Architectural Control Committee shall have authority over any changes after initial occupancy of the residence.

After the completion of initial construction of a residence on each lot and the construction of all Units planned within the Southern Dunes Community or at such earlier date as the Developer, in its sole discretion shall determine, the Developer shall assign the New Construction review responsibilities to the Architectural Control Committee.

The New Construction Committee may, but shall not be required to, retain architects, contractors, and other construction and development planning experts, to assist it in performing its duties hereunder and the Committee may impose an application fee for new construction applications to defer the costs of retaining such experts.

SECTION 10.4 Architectural Design and Environmental Control. Subsequent to approval of new construction by the New Construction Committee and completion of new construction pursuant to the approval, no additional structure or improvement -- including but not limited to accessory structures, landscaping, fences, walls, mounds, ponds, pools, satellite dishes, antenna, patios, basketball goals and other permanent structures for sports and recreation -- shall be erected, placed or altered on any Lot or parcel in this Community until the building plans, specifications and plot plan showing the location, materials, and appearance of the planned improvement, including the exterior colors, have been submitted to and approved by the Architectural

Control Committee, regarding conformity and harmony of external design, topography, and finished ground elevations.

The destruction of trees and vegetation and any other such matter as may affect the environment and ecology of this Community must also be approved in advance by the Committee. Excepted from the architectural approval requirement shall be items of landscape maintenance such as pruning of trees and removal of dead trees and limbs by any person or entity having responsibility for such maintenance.

The Architectural Control Committee may, but shall not be required to, retain architects, contractors, and other construction and development planning experts, to assist it in performing its duties hereunder and the Committee may impose an application fee for architectural approval applications to defer the costs of retaining such experts.

SECTION 10.5 Composition of the Committee. The Architectural Control Committee will be composed of at least three members. All members of the Committee, including replacement members, will be appointed by and will serve at the will of the Declarant, until the first to occur of the following:

- (a) Thirty days after the Developer has approved the initial home construction plans for the last Lot or Unit in Southern Dunes, as established in Exhibits "1" and "2", and any additions to the Southern Dunes Community as permitted in this Declaration; or
- (b) Thirty days after Declarant notifies the Owners of its intention to transfer authority for Architectural Control to the Owners.

Within thirty days after the Declarant provides notice to the Owners to appoint Directors and take over control of the Committee, the Board of Directors of the Southern Dunes Homeowners Association, Inc. shall appoint three or more Owners to serve on the Committee.

UNTIL SUCH TIME, THE DECLARANT SHALL HAVE COMPLETE AUTHORITY AND CONTROL OVER ARCHITECTURAL AND ENVIRONMENTAL DESIGN. During the time that the Declarant has Architectural Control, a majority of the Committee members may designate one or more representatives to evaluate and approve specific applications, so that the Committee is not required to meet to review each application.

SECTION 10.6 Written Approval. The Committee's approval or disapproval of any properly submitted application shall be in writing. In the event that written approval is not sent by the Committee within thirty (30) days from the date of submission of a completed application and any additional documentation requested by the Committee, and so long as the request is not prohibited by the Architectural Control Guidelines then in effect, it shall be deemed that the Committee has approved the presented plan.

SECTION 10.7 Additional Approvals. Under no circumstances shall approval of the Architectural Control Committee be deemed to replace any required governmental approval or be deemed to constitute a representation or assurance by the Committee that the planned structure or improvement meets the requirements of any law, regulation or ordinance or meets any structural or safety requirement or standard.

SECTION 10.8 Alterations Without Approval. The Architectural Control Committee and/or the Board of Directors shall have the right and authority to require the removal of any improvement which has been made without receiving the approval of the Committee or which is substantially different in appearance, size, color, materials, location or otherwise, from what was approved by the Committee, including injunctive relief, and recovery of costs of removal, damages, reasonable attorney fees, and costs.

SECTION 10.9 Exercise of Discretion. Declarant intends that the members of the Architectural Control Committee exercise discretion in the performance of their duties consistent with the provisions of this Article, and every Owner, by the purchase of a Lot, shall be conclusively presumed to have consented to the exercise of discretion by such members. In a judicial proceeding challenging a determination by the Architectural Control Committee

and in any action initiated to enforce this Declaration in which an abuse of discretion by the Architectural Control Committee is raised as a defense, abuse of discretion may be established only if a reasonable Person, weighing the evidence and drawing all inferences in favor of the Committee, could only conclude that such determination constituted an abuse in discretion.

SECTION 10.10 Miscellaneous Provisions.

A. The Committee's approval of, or failure to object to, a requested improvement for one Lot or Unit shall not prevent it from objecting to a similar improvement for another Lot or Unit in the Community, if it deems, in its sole discretion, that the requested improvement would be detrimental to the Community or the other Owners.

B. Neither the members of the Committee nor their designated representatives will be entitled to any compensation for services performed on behalf of the Committee.

C. After the Declarant has transferred authority for all Architectural Control to the Owners, a decision of the Architectural Review Committee may be appealed to the Board of Directors by the Applicant or by an adjoining Owner, which may reverse or modify such decision by a two-thirds (2/3) vote of the Directors then serving.

D. After the Declarant has transferred authority for all Architectural Control to the Owners, members of the Architectural Control Committee shall be appointed to serve a three year term and may serve no more than two consecutive terms.

E. After the Declarant has transferred authority for all Architectural Control to the Owners, any member of the Architectural Control Committee may be removed by the Board of Directors with or without cause by a majority vote at a meeting duly called for such purpose. Prior to the date that the Declarant has transferred authority for all Architectural Control to the Owners, the Declarant may remove any member of the Architectural Control Committee with or without cause.

F. Members of the Architectural Control Committee have the right to inspect work being performed (at reasonable times with reasonable advanced notice) to insure compliance with these Restrictions and applicable regulations.

G. After the Declarant has transferred authority for all Architectural Control to the Owners, and with the approval of the Declarant and a majority of all Community Owners, architectural control may be delegated to separate committees for each subdivision within the Southern Dunes Community, and each Subcommittee shall be appointed by the Southern Dunes Board of Directors, upon the recommendation of any subdivision board of directors, advisory committee or membership. Each Subcommittee shall operate within the rules and authority of this Section and Section 10.2.

ARTICLE 11. ASSESSMENTS

SECTION 11.1 Annual Accounting. A financial statement and annual report of the Corporation shall be prepared annually, after the close of each fiscal year and prior to the date of the next annual meeting, by a certified public accountant or CPA firm then serving the Corporation, which shall show all income and receipts and all expenses incurred and paid during the preceding fiscal year. This financial statement and annual report shall be in the form of a compilation, prepared under the direction of the Board and distributed to each Owner prior to the next Annual Meeting. Any Owner or group of Owners shall, at their sole expense, be entitled to an audited accounting by the certified public accountant or CPA firm then serving the Association, by paying the Association for the cost of the audit (as estimated by the accountant and including a reasonable fee for the association's professional manager if one is employed) in advance of the start of the audit.

SECTION 11.2 Proposed Annual Budget After the Authority Transfer Date.
The Board of Directors shall submit a proposed Annual Budget and Regular Assessment, estimating the total amount of the Common Expenses for the upcoming fiscal year, to each Owner in conjunction with the Association's annual meeting. Once an Annual Budget is adopted, it shall be the basis for the Regular Assessment for the upcoming fiscal year.

The Annual Budget may include an amount for the Replacement Reserve Fund for capital expenditures, and replacement and repair of the Common Areas.

An Annual Budget and Regular Assessment shall be approved and adopted at each Annual Meeting of the Owners. If the Owners have not approved an annual budget, whether or not due to failure or delay of the Board of Directors, the Owners shall continue to pay Regular Assessments based upon the last approved budget or, at the option of the Board, based upon up to one hundred and twenty five percent (125%) of such last approved budget, as a temporary budget.

The Annual Budget, the Regular Assessments, and all sums assessed by the Corporation shall be established by using generally accepted accounting principles applied on a consistent basis.

SECTION 11.3 Proposed Annual Budget Prior to the Authority Transfer Date. Prior to the Authority Transfer Date, the Declarant shall establish the amount and payment terms of Assessments based upon the same items of expense and considerations as provided in Section 11.2 above, without the prior approval of the Owners. The Regular Assessments, including management fees and contributions towards the replacement reserve fund, shall not exceed Twenty five Dollars (25.00) per month, per lot or per unit, in the first year after this Declaration is filed, with increases of not more than ten percent (10%) per year (cumulatively) thereafter. HOWEVER, THIS LIMITATION IS ONLY FOR THE COMMUNITY ASSESSMENT AND SUBDIVISION ASSESSMENTS WILL ALSO BE IMPOSED.

Prior to the Authority Transfer Date, the direct costs related to unplatted ground within the Community will be paid by the Developer or other owner of the ground and will not be charged to the Association, and future or projected lots within unplatted ground will not be responsible for regular or special assessments. The Developer may include ground within the budget which the Developer believes will be platted within the upcoming year.

Prior to the Authority Transfer Date, the Declarant shall not be obligated to pay any management fee or contribution towards the replacement reserve fund for the Corporation, or any assessment of any kind or nature, however the Declarant will cover any shortfall in the Annual Budget for entryway maintenance, lawn care, landscaping, utilities, snow removal (if included in the budget), security, lake maintenance, common area maintenance, and legal, accounting and management fees. Shortfall shall not be considered by category, rather it shall be considered only in the totality of the annual budget. Excluded from this guarantee are expenses of the individual subdivisions, obligations of any builder, major physical alterations or other unusual expenditures not ordinarily anticipated in normal maintenance operations, and purchases under Section 21.3 of this Declaration. This guarantee also does not prohibit the Declarant from using Association reserves for such expenditures or from imposing a Special Assessment for such expenditures.

Prior to the Authority Transfer Date, home builders authorized by the Declarant will not be required to pay any assessments to the Association. The annual budget for the Association will be divided between the lots which have been deeded to an owner (other than a builder), with a projection for lots which will be transferred during the coming year.

Prior to the Authority Transfer Date, neither the Declarant nor the Association shall be required to send a financial statement and annual report of the Corporation to each Owner, however the records of the Corporation shall be available for review by Owners during regular business hours, upon reasonable advanced notice.

At the time that Declarant transfers authority to the owners, Declarant

shall have no liability for turning over any money to the Association, provided that all funds collected from owners have been used for purposes permitted by this Article.

SECTION 11.4 Regular Assessments. The Annual Budget shall contain a proposed Regular Assessment against each Lot and Unit. The Regular Assessment shall be the same amount for each Lot and for each Unit, except for differences in limited common areas benefitting such Lot or Unit and any differences in the services to which a Lot or Unit is entitled. Following the adoption of the Annual Budget, each Owner shall be given written notice of the assessment (herein called the "Regular Assessment").

In the event the Regular Assessment for a particular fiscal year is initially based upon a temporary budget, following adoption of the final Annual Budget by the Owners which results in a different Regular Assessment, a revised statement shall be sent to each Owner indicating the additional amount owed or the credit for the next Regular Assessment.

The Regular Assessment against each Lot or Unit shall be paid to the Association in advance, in annual installments, or as otherwise determined by the Board. The Board may (but shall not be required to) allow payment of assessments monthly, quarterly, or semi-annually, in advance, including an additional fee covering the additional administrative expense.

The Regular Assessment for the current fiscal year shall become a lien on each Lot and Unit as of the first day of the Corporation's fiscal year, even though based upon a Temporary Budget. If an Owner has paid an assessment based upon a Temporary Budget, and conveys or transfers his Lot or Unit before the Annual Budget and Regular Assessment are determined, both the Owner and the successor Owner shall be jointly and severally liable for any balance owed for the Regular Assessment.

SECTION 11.5 Amenities Area. The Declarant shall have the right, but no obligation, to construct an amenities area, including, for example, playground equipment. The initial cost of construction of any amenities area constructed by the Declarant would be borne by the Declarant, the cost of operation, supervision, repair, on-going maintenance and replacement, as necessary, shall be a common expense of the Association or as a limited common expense charged to those owners benefitting from the use thereof.

SECTION 11.6 Special Assessments. Special Assessments may become necessary as a result of Common Expenses of an unusual or extraordinary nature or which were not otherwise anticipated, the failure of Owners to pay Regular Assessments, or for other reasons.

The Board of Directors, with approval of the Owners at any Regular or Special Meeting of the Owners or by mail-in ballot, shall have the right, power and authority to impose special assessments upon each Lot and upon each Unit in equal shares (herein called "Special Assessment"), which shall become a lien on each Lot and on each Unit. For Special Assessments attributable to Limited Common Areas or providing services only to a portion of the Community, the Special Assessment shall be approved by and imposed upon only such Owners.

Section 11.7 Initial Start-Up Fund. Upon the closing of the initial conveyance of each Lot or Unit to an Owner other than a Builder, the purchaser of such Lot or Unit shall pay to the Corporation, in addition to any other amounts then owed or due to the Corporation, as a contribution to its start-up fund, an amount equal to one-sixth (1/6th) of the then current annual Base Assessment against such Lot or Unit, which payment shall be non-refundable and shall not be considered as an advance payment of any Assessment or other charge owed the Corporation with respect to such Lot or Unit. In the event that the builder fails to collect the start-up funds from the purchaser, the builder shall be liable for payment of such funds.

The start-up fund shall be used by the Corporation for payment of, or reimbursement to, Declarant for advances to the Association and initial and set-up expenses of the Association. The entire Initial Start Up Fund will be paid to the Declarant and the Declarant shall not be required to account for

its use thereof.

SECTION 11.8 Reserves. As a part of any Regular or Special Assessment, the Association may collect funds for a reserve for future expenses. These reserves may be collected for reasonably anticipated expenses plus a reasonable amount may be collected for unanticipated expenses. Reserve funds shall be accounted for separately by the Board, and may be used by the Board of Directors for any Common Expense for which it does not otherwise have funds and which are not designated for a specific purpose or expenditure.

SECTION 11.9 Failure of Owner to Pay Assessments. Each Owner shall be personally liable for the payment of all Regular and Special Assessments. If any Owner shall fail, refuse or neglect to pay any Regular Assessment or Special Assessment when due, a late charge of twenty percent (20%) of the unpaid assessment amount or fifty dollars (\$50.00), whichever is greater, shall be added to the balance owed, plus interest of one and three fourths percent (1 3/4%) per month beginning thirty (30) days after the date due, and the following additional provisions shall apply:

(a) A lien for any and all unpaid assessments on the Owner's Lot or Unit may be filed and foreclosed by the Board of Directors for and on behalf of the Corporation as a mortgage on real property or as otherwise provided by law;

(b) The Board may bring suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing or waiving the lien securing the same;

(c) The Association may recover costs of collection (including fees charged by the managing agent) and attorney fees in addition to any other amounts due;

(d) Where the Owner constitutes more than one person, the liability of such persons shall be joint and several;

(e) The Owner, the lessee of any residential unit, and any adult occupant of a residential Lot or Unit shall be jointly and severally liable for the payment;

(f) The balance of installments for the current fiscal year shall become immediately due; and

(g) The Board shall be entitled to the appointment of a receiver for the purpose of preserving the Lot or Unit and to collect any rentals for the benefit of the Corporation to be applied to the unpaid Regular Assessments or Special Assessments.

SECTION 11.10 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot or Unit shall not affect the assessment lien. However, the sale or transfer of any Lot or Unit pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer (prorated to the date of sale or transfer). No sale or transfer shall relieve such Lot or Unit from liability for any assessments thereafter becoming due or from the lien thereof nor relieve the unit owner from personal liability for any prior assessments.

SECTION 11.11 Subordination of Subdivision Liens. The lien of any subdivision within Southern Dunes shall be subordinate to any lien under this Master Declaration.

ARTICLE 12. UTILITY PURCHASING AGREEMENTS

SECTION 12.1 Definition of a Utility Purchasing Agreement. For purposes of this Declaration, a Utility Purchasing Agreement shall mean any contract with a utility company, including but not limited to a company which sells electricity or natural gas, or any company that provides telephone or other telecommunications services, for the purchase of such utility service or product on behalf of all present and future Owners, lessees and occupants

within the Southern Dunes Community, or any portion of the Committee.

SECTION 12.2 Authority to Enter into a Utility Purchasing Agreement.
The Declarant, prior to the Authority Transfer Date, or the Board of Directors of the Association, either prior to or after the Authority Transfer Date, may enter into a Utility Purchasing Agreement on behalf of all present and future Owners, lessees and occupants within the Southern Dunes Community, or any portion thereof, and for any other person or entity which may purchase or use utility services therein, for any one or more utility services and which Agreement shall bind all purchasers and users within this Community to purchase utility services exclusively from said company. Included within the authority granted herein shall be the authority to negotiate a reduction, elimination or refund of installation fees in favor of the Developer, in exchange for a Utility Purchasing Agreement and the authority to amend any existing Agreement. Also included within the authority granted herein shall be the authority to cooperate or contract with other associations or other residential or commercial groups in contracting for Utility Purchasing Agreements. Notwithstanding any provision in this Declaration, neither the Declarant nor the Association shall have any obligation to enter into any Utility Purchasing Agreement, and no successor Declarant or any other person or entity serving as a Developer within the Community shall have the authority to enter into any such Agreement without a specific designation of authority from the R.N. Thompson Development Corporation.

SECTION 12.3 Restrictions on Utility Purchasing Agreements. The Board of Directors may not enter into a Utility Purchasing Agreement unless such agreement is authorized by law. Current law does not permit Utility Purchasing Agreements. Further, the Board or the Declarant may decide not to enter into a Utility Purchasing Agreement if to do so would render the Board or the Declarant subject to regulation as a public utility.

Any Utility Purchasing Agreement shall be with a reputable and responsible company having the capacity to provide utility services in such volume or capacity as is reasonably required for the entire community, with appropriate reliability and dependability of service, and at competitive rates. Any such agreement shall be for a term of eight (8) years or less, but may include options in favor of the Association for additional years or terms. The Board or the Declarant may only enter into a Utility Purchasing Agreement if the rates under such contract are at or below the prevailing rate in Indianapolis for such utility services at the time of entering into the Agreement and that the establishment of such agreement shall not solely benefit the Declarant. Further, after the Authority Transfer Date, neither the members of the Board of Directors nor any other Owner shall benefit from any such contract in any manner different from the benefit received by all Owners.

ARTICLE 13. THE GOLF COURSE

SECTION 13.1 Ownership. The Developer presently intends to build one or more golf courses and related facilities, which may, but shall not be required to, include a championship golf course, a lighted par 3 course, a clubhouse, a golf academy and driving range, and various storage and maintenance buildings or facilities (herein referred to collectively as "golf course") within the Southern Dunes Community. The golf course and any related facilities, and the real estate upon which the golf course has been constructed, shall remain private property and shall not be considered common area of the Association. Further, no owner or resident shall have any special rights or privileges related to the golf course, except as specifically granted by the golf course owner.

SECTION 13.2 Developer's Right to Change the Preliminary Plans.
Although the preliminary drawings or plans for the golf course may show the location of the specific golf holes and related facilities, the Developer or a

subsequent golf course owner reserves the right to change the location of the course, any hole or combination of holes within the course, any tee, green or other portion of any hole or combination of holes, and any related facility, including but not limited to any clubhouse and any storage or maintenance building or facility serving the golf course and including the right to cancel any portion or all of its preliminary plan, and no Owner, lessee or occupant shall have any claim or cause of action against the Developer, Fee Owner, golf course owner, or builder resulting from such change or adjustment in the preliminary, projected, published or advertised plans. All such plans shall be considered to be for demonstration or illustrative purposes only and no person shall be deemed to acquire any property or contract rights resulting from such plans or to have any other claim of any kind or nature resulting from any change of plans related to the golf course.

SECTION 13.3 Golf Course Not a Part of the Community. Despite its location within the Southern Dunes community area, the golf course and its related facilities shall not be a part of the Southern Dunes Community and shall not be entitled to membership in the Association or entitled to vote, shall not be subject to any Association assessments or fees, shall not be subject to the Architectural Review requirements, and shall not be subject to this Master Declaration (other than the provisions of this Article) or to any subdivision declaration.

SECTION 13.4 Irrevocable License. Every Lot, every Unit, and all of the common area within the Southern Dunes Community is hereby burdened with an irrevocable license allowing golf balls hit by any persons using the golf course to come over and on each such Lot or Unit. All persons legally using the privately owned golf course shall have an irrevocable license to come on each Lot, common area or limited common area of the community for the purpose of seeking and retrieving such golf balls during play; provided that golfers shall not have the right to use such license to come on any fully fenced Lot. The foregoing license shall not relieve golfers using the golf course of any liability they may have for property damage or personal injury resulting from the entry of golf balls or golfers on any Lot, but shall relieve the Declarant, the Fee Owner, the golf course owner and the Association from any liability for the negligence, intentional actions, or other tortious actions of any golfer. The Owners and occupants of each Lot, and invitees within the Community are subject to the risk of golf balls being hit onto a Lot, or onto a Common Area or public street and possibly causing damage to property or injury to persons.

SECTION 13.5 Additional Golf Course Easement. The golf course owner shall have the right and easement to utilize the storm water drainage system of the Southern Dunes Community, including storm water pipes, drains, swales, lakes and ponds, and shall not be required to contribute to the costs of maintenance thereof. However, the golf course owner shall not expand or substantially increase its storm water discharge into the storm water drainage system beyond the capacity of the system as originally engineered, and considering the storm water drainage requirements of the Southern Dunes Community.

SECTION 13.6 Waiver of Liability. The Declarant, the Fee Owner, the golf course owner, the Association, and any agents, servants, employees, directors, officers, affiliates, representatives, and successors of any such party shall not in any way be responsible for any claims, damages, losses, demands, liabilities, obligations, actions or causes of action whatsoever, including, without limitation, actions based on (a) any invasion of the Owner's use or enjoyment of the Lot or Unit, (b) improper design of the golf course, (c) the level of skill of any golfer (regardless of whether such golfer has the permission of the management to use the golf course), or (d) trespass by any golfer on any Lot, common areas or limited common areas, that result from property damage or personal injury from golf balls (regardless of number) hit on the Lot, common areas or limited common areas, littering or

other property damage or personal injury caused by golfers or other persons using the golf course either with or without permission, or from the exercise by any golfer of the easements granted hereby.

ARTICLE 14. MORTGAGEES

SECTION 14.1 Notice to Corporation. Any Mortgagee who places a first mortgage lien upon an Owner's Lot or Unit, or the Owner, may notify the Secretary of the Corporation thereof and provide the name and address of the Mortgagee. A record of such Mortgagee and its address shall be maintained by the Secretary. Any notice required to be given to the Mortgagee pursuant to the terms of this Declaration shall be deemed effectively given if mailed to such Mortgagee at such address. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee as may be otherwise required by this Declaration shall be required, and no Mortgagee shall be entitled to vote on any matter to which it otherwise may be entitled by virtue of this Declaration, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise. The Association may charge an additional assessment to any Owner whose Mortgagee requests notice, to cover the administrative costs of providing notices to the Mortgagee.

The Corporation shall, upon request of a Mortgagee who has furnished the Corporation with its name and address as hereinabove provided, furnish such Mortgagee with written notice of any default in the performance by its borrower of any obligation of such borrower under this Declaration which is not cured within sixty (60) days.

SECTION 14.2 Notice of Unpaid Assessments. The Corporation shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Lot or a Unit, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Regular Assessments or Special Assessments or other charges against the Lot or Unit, which statement shall be binding upon the Corporation and the Owners, and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid assessments or charges in excess of the amounts set forth in such statement or as such assessments may be adjusted upon adoption of the final annual budget, as referred to in Article 11 hereof.

SECTION 14.3 Right of Mortgagee to Pay Real Estate Taxes or Insurance Premiums. Mortgagees shall have the right, but not the obligation, (1) to pay any taxes or other charges against the Common Area which are in default and, (2) to pay any overdue premiums on hazard insurance for the Association or to secure new hazard insurance for the Association on the lapse of a policy. Any Mortgagee making such payment shall be immediately owed reimbursement by the Corporation.

SECTION 14.4 Notice of Condemnation or Casualty Loss. Mortgagees shall be timely notified of any condemnation loss which affects a material portion of the Southern Dunes Community or any Lot or Unit upon which the Mortgagee has an interest. Mortgagees shall also be timely notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond held by the Corporation.

SECTION 14.5 Notice to Insurers and Guarantors. Any guarantor of a first mortgage or any insurer of a first mortgage shall, upon notification and request to the Corporation, receive the same notices as are required to be given to Mortgagees.

SECTION 14.6 Failure of Mortgagee to Respond. Any Mortgagee who receives a written request to approve an amendment and fails to give a negative response within thirty (30) days after receiving such request shall be deemed to have approved such request.

ARTICLE 15. INSURANCE

SECTION 15.1 Casualty Insurance. The Corporation shall purchase a casualty insurance policy affording fire and extended coverage, insuring the Corporation's improvements within the Common Areas, Limited Common Areas and Easements for the full replacement value of the improvements. If the Board of Directors can obtain such coverage for reasonable amounts, they shall also obtain "all risk" coverage. Such policy shall (to the extent obtainable) contain provisions that the insurer waives its right to subrogation against the Corporation, the Board of Directors, its agents and employees, Owners, their respective agents and guests.

Each Owner shall otherwise be solely responsible for loss or damage to his Lot, the improvements on his Lot, the contents of his Unit, however caused, and his personal property stored elsewhere on the Real Estate. The Corporation shall have no liability to any Owner for loss or damage to a Lot or Unit, the improvements on a Lot, the contents of any Unit, or an Owner's personal property stored elsewhere within the Community. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk, however, condominium buildings may be insured, in full or in part, by the condominium association for such unit. In no event will the Southern Dunes Homeowners Association or the Declarant maintain insurance on any privately owned residence or structure and neither the Association nor the Declarant shall have any liability to any Owner for loss or damage to a Lot, any improvement on a Lot, or to any Unit or the contents of any residence, building, unit or other personal property of any Owner.

SECTION 15.2 Public Liability Insurance. The Corporation shall also purchase a comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time, but not less than Two Million Dollars (\$2,000,000), arising out of a single occurrence, for bodily injury or death and for property damage. Such policy shall cover the Corporation, the Board of Directors, any committee or division of the Corporation or Board, any Managing Agent, and all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Community. Such public liability insurance policy shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Corporation or other Owners.

SECTION 15.3 Other Insurance. The Corporation shall obtain any other insurance required by law and may purchase such other insurance as the Board of Directors from time to time deems necessary, advisable or appropriate, including, but not limited to, liability insurance on vehicles owned or leased by the Corporation and officers' and directors' liability policies. Such insurance shall inure to the benefit of each Owner, the Corporation, the Board of Directors and any Managing Agent acting on behalf of the Corporation.

SECTION 15.4 General Provisions. The premiums for all insurance hereinabove described shall be paid by the Corporation as part of the Common Expenses. If available, the policies shall contain an endorsement that it shall not be terminated or substantially modified without at least ten days prior written notice to Mortgagees and to the Corporation. Written notice of any insurance obtained by the Corporation and of any subsequent changes or termination thereof shall be promptly furnished by the Board to each Owner or mortgagee whose interest may be affected thereby. Except as otherwise provided in this Article, notice required under this section shall be sufficient if it is published as a part of a general newsletter and mailed or delivered within sixty days.

The Board of Directors shall be responsible for reviewing, at least every two years, the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above.

All proceeds payable as a result of casualty losses sustained which are

covered by insurance owned by the Association shall be paid to the Association, as the insurance trustee for the benefit of the individual Owners and Mortgagees. The proceeds shall be used or disbursed by the Board of Directors, in accordance with the provisions of this Declaration. Each Owner shall be deemed to have delegated to the Board of Directors his or her right to adjust with the insurance companies all losses under the policies purchased by the Corporation.

SECTION 15.5 Insurance by Owners. Each Owner shall have the right to purchase such additional insurance at his own expense as he may deem necessary.

ARTICLE 16. LOSS TO COMMON AREAS

SECTION 16.1 Restoration of Common Area. In the event of damage to or destruction of any portion of the Common Area, Limited Common Area or Easements due to fire or any other casualty or disaster, the Corporation shall, except as otherwise provided in this Section, promptly cause the same to be repaired and reconstructed. The proceeds of insurance carried by the Corporation, if any, shall be applied to the cost of such repair and reconstruction, and the balance shall be paid first from the reserve account and second, as a Common Expense.

For purposes of this Article, repair, reconstruction and restoration shall mean construction or rebuilding the Common Area to as near as possible the same condition as it existed immediately prior to the damage or destruction and with the same type of architecture. However, the Board may elect to improve or update the improvements or damaged area, within its discretion, so long as there are sufficient insurance proceeds, funds in reserve accounts, or the provisions of Section 6.13 are complied with.

The Board of Directors may elect not to repair or reconstruct the Common Area and may apply the proceeds of insurance to other purposes consistent with this Declaration and with the Articles of Incorporation of the Association where the Board of Directors determines that the common areas or improvements which have been damaged or destroyed are not used and useful to the Community or to the portions of the Community for which such common areas or improvements were intended to serve, or where the common areas or improvements which have been damaged or destroyed can not be economically restored with the funds available both from the insurance proceeds and from other funds reasonably available to the Association for such purpose.

ARTICLE 17. COVENANTS AND RESTRICTIONS

SECTION 17.1 The following covenants and restrictions on the use and enjoyment of the Lots, Units and Common Area shall be in addition to any other covenants or restrictions contained herein and in the Plat Covenants, and all such covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner, or by the Corporation. Present or future owners of the Corporation shall be entitled to injunctive relief against any violation or attempted violation of any such covenants and restrictions, and shall be entitled to damages and reasonable attorney fees resulting from any violations thereof, but there shall be no right of reversion or forfeiture resulting from such violation.

These covenants and restrictions are as follows:

A. All Lots and Dwelling Units shall be used exclusively for residential purposes and for occupancy by a single family.

B. No Owner shall permit anything to be done or kept in his Unit or on his Lot or on any of the Common Area which will result in a cancellation of insurance or increase in insurance to the Association or to any other Owner, or which would be in violation of any law or ordinance or the requirements of

any insurance underwriting or rating bureau.

C. No nuisance shall be permitted on any Lot, in any Unit, or elsewhere in the Community. Without limiting the scope of the term "nuisance", it shall include anything which endangers life or health, or obstructs the reasonable, comfortable and peaceful use of property, or its value, as well as that which gives offense to the senses or violates the laws of decency. The Board of Directors' determination as to what specific circumstances constitute a nuisance shall be conclusive.

D. No Owner shall cause or permit anything to be hung or displayed on the outside of the windows of his Unit or placed on the outside walls of any building, and no awning, canopy, shutter or other attachment or thing shall be affixed to or placed upon the exterior walls or roofs or any other parts of any building without the prior consent of the Architectural Review Committee.

E. No satellite receiving dish greater than one meter in diameter shall be erected or installed on any Lot or Unit, and satellite dishes of one meter in diameter or less require the prior approval of the Architectural Control Committee as to location and screening. Exposed antennae shall require approval by the Architectural Control Committee. Height shall not exceed five (5) feet above roof peak.

F. No "for sale", "for rent", "garage sale" or other signs for any purpose shall be placed upon any common area or upon any Lot other than the Lot which is for sale, for rent or upon which the garage sale will be held, without the express consent of the Board. Any "for sale", "for rent", "garage sale" or other yard signs, whether placed on any lot or with the Board's consent placed in the common areas, shall be limited in size to what is commonly used in the residential real estate community, as determined by rules established by the Board. No more than one sign may be placed on any Lot, without the prior consent of the Board. No banners or signs shall be hung from any home or elsewhere on any Lot for more than one week, without the prior consent of the Board.

G. No animals, livestock or poultry of any kind shall be raised, bred or kept in any Dwelling Unit or on any Lot or any of the Common Area, except that pet dogs, cats or customary household pets may be kept in a Dwelling Unit, provided that such pet is not kept, bred or maintained for any commercial purpose, and does not create a nuisance. Pets shall be taken outdoors only under leash or other restraint and while attended by its owner, and the Association shall not be liable for any injury or damage to persons or property, including the Common Area, caused by any pet. The Board may adopt such other rules and regulations regarding pets as it may deem necessary from time to time, including, without limitation, a restriction on the number of pets, the prohibition of particular species or breeds, and the prohibition of pets in particular areas of the Community. Any pet which, in the judgment of the Board, is causing or creating a nuisance or unreasonable disturbance or noise, shall be permanently removed from the Community within ten (10) days after written notice from the Board.

H. The Lots and the Common Area shall be kept free and clear of rubbish, debris and other unsightly materials. No Owner or guest of an Owner, nor any builder, contractor or subcontractor, shall litter or dispose of trash improperly anywhere within the Community.

I. No Dwelling Unit or Lot or any portion of the Common Area shall be used in any unlawful manner or in any manner which might cause injury to the reputation of the Community, or which might be a nuisance, annoyance, inconvenience or damage to other Owners and occupants. Without limiting the generality of the foregoing, this Covenant shall include excessive noise from the use of any musical instruments, radio, television, loud speakers, electrical equipment, amplifiers or other equipment, machines or vehicles, loud voices, excessive amounts of light, vibration, or unpleasant odors.

J. No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed on, or so as to be visible from, any street or any part of

the Common Areas or from neighboring properties.

K. No garage sale, moving sale, rummage sale or similar activity and no trade or business may be conducted in or from any Lot, except with the prior approval of the Board. The Board may establish rules generally permitting such sales, or permitting such sales on a limited basis.

L. No water wells shall be drilled on any of the Lots, without prior approval of the Board, nor shall any septic tanks or other sewage disposal systems be installed on any of the Lots, without the approval of the Board and of the governing public health agency or other civil authority.

M. No person shall draw water or other materials from the lakes or other water retention ponds or add water, except for storm water drainage approved by the Declarant or by the Committee, or other materials, whether by dumping or otherwise, to the lakes and other water retention ponds without the prior approval of the Board as to quality and quantity of materials.

N. Except as may be specifically permitted by the Declarant in the Plat Covenants for one or more sections of the Southern Dunes community, there shall be no docks on the lakes and no boating or swimming. Fishing may be permitted for owners of property adjoining a lake, however no owner or other person may trespass on the property of another or on the property of the golf course in order to fish and no person may fish from a public right of way, such as a street.

O. The Board may prohibit or limit parking on the streets of residential subdivisions within the Community.

P. No industry, trade, or other commercial or religious activity, educational or otherwise, whether designed for profit, altruism or otherwise, shall be conducted, practiced or permitted upon any Lot or elsewhere within the Community, except within such rules and regulations as are established by the Board, and except that an Owner or resident may conduct business activities within a Dwelling Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Dwelling Unit; (b) the business activity conforms to all zoning requirements for the Real Estate; (c) the business activity does not involve persons coming onto the Real Estate who do not reside on the Real Estate or involve door-to-door solicitation of residents of the Real Estate; and (d) the business activity is consistent with the residential character of the Real Estate and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Real Estate, as may be determined in the sole discretion of the Board.

Q. All Owners and members of their families, their guests, or invitees, and all occupants of any Dwelling Unit or other persons entitled to use the same and to use and enjoy the Common Area or any part thereof, shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of the Common Area or the Limited Common Area.

R. No Lot may be used for growing crops, except within the size and location guidelines established by the Board. The Board shall have the right and authority to prohibit the growing of crops entirely.

S. An Owner shall not permit the growth of weeds and volunteer trees and bushes on his Lot, and shall keep his Lot reasonably clear from such unsightly growth at all times. If an Owner fails to comply with this Restriction, the Board of Directors shall cause the weeds to be cut and the Lot cleared of such growth at the expense of the Owner thereof and the Corporation shall have a lien against the cleared Lot for the expense thereof.

T. The Common Areas shall be used and enjoyed only for the purposes for which it is designed and intended, and shall be used subject to the rules and regulations from time to time adopted by the Board.

U. No Owner may rent or lease his Dwelling Unit for transient or hotel purposes or for any purpose for a period of less than six months without the prior approval of the Board.

V. Any Owner who leases a Dwelling Unit shall lease the entire Dwelling Unit and shall have a written lease, for a period of at least six months, which shall provide that the lease is subject to the provisions of this Declaration and any failure of the lessee to comply with the terms of this Declaration shall be a default under the lease.

W. No improvement which has partially or totally been destroyed by fire or otherwise shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage, without approval from the Committee. Also, any improvement or addition to an existing structure shall be completed within three months from the time of commencement, except with the approval of the Committee.

SECTION 17.2 Special Covenants Relating to the Well Field. Attached hereto as Exhibit "4" is the Special Warranty Deed from Waterway Holdings, Inc. to the Wellingshire Joint Venture. All of the covenants contained in this Deed are specifically incorporated herein. In addition, well heads and an underground well system, owned by IWC Resources Corp. will exist throughout the community. IWC Resources Corp. will be granted exclusive easements surrounding the well heads, to protect them from damage or tampering.

SECTION 17.3 Fines for Violation of Covenants. The Board of Directors may assess a fine or penalty, not exceeding fifty dollars (\$50) per incident, against any Owner violating the Covenants and Restrictions in this Declaration or in the Plat Covenants or any rule established by the Board. A continuing violation may be assessed an additional fine, not exceeding fifty dollars each week until corrected, at the discretion of the Board. Any such fine will be considered to be a special assessment against the Owner and the Owner's Lot or Unit, and collectable as provided in Section 11.9.

ARTICLE 18. PROVISIONS RELATING TO SUBDIVISIONS WITHIN Southern Dunes

SECTION 18.1 General Provisions. One or more separate declarations may be filed for the residential subdivisions within Southern Dunes. All owners of lots or units, lessees, and occupants within such subdivisions will be subject to the terms and provisions of the plat covenants and declaration for the subdivision, in addition to the terms and provisions of this Master Declaration for the entire Southern Dunes Community. Also, each owner will be required to be a member of the subdivision homeowners association in addition to being a member of this Association.

SECTION 18.2 Architectural Control. Until such time as the Declarant transfers control of the Architectural Control Committee to the owners, there shall only be one Architectural Control Committee for the Community. After control of the Architectural Control Committee has passed to the Owners, and with the approval of the Declarant and a majority of all Community Owners, architectural control may be delegated to separate committees for each subdivision within the Southern Dunes Community. If so, each Subcommittee shall be appointed by the Southern Dunes Board of Directors, upon the recommendation of any Subdivision board of directors. Each Subcommittee shall operate within the rules and authority of Article 10 of this Master Declaration, however authority to enact Architectural Design Guidelines shall remain with the Southern Dunes Architectural Control Committee. If, for any reason, a Subdivision Architectural Control Committee would disband or cease to exist, architectural control shall revert to the Southern Dunes Architectural Control Committee under the terms and provisions of this Declaration. At no time should any owner be required to seek Architectural Approval from both an Architectural Control Subcommittee and from the Architectural Control Committee.

SECTION 18.3 Subdivision Plat Covenants and Declarations. So long as the Declarant owns any property within the Southern Dunes community, no Plat Covenants or Declarations shall be filed for any Subdivision within the Southern Dunes Community by any person or entity other than the Declarant

until the Plat Covenants or Declaration, as the case may be, have been approved in writing by the Declarant, and any such attempted recording shall be invalid.

SECTION 18.4 Subdivision Declarations. In order to promote uniformity between this Master Declaration and the various subdivision declarations, the subdivision declarations may incorporate by reference Articles or Sections of this Declaration without re-stating all provisions therein.

ARTICLE 19. PROVISIONS RELATING TO COMMERCIAL UNITS

SECTION 19.1 Definition. "Commercial Unit" shall mean any parcel or development for retail, office, apartments, storage or other commercial purpose within the Southern Dunes Community.

SECTION 19.2 General Provisions. While Commercial Units will be developed within the Southern Dunes community, the owners of such Units will not Owners of Lots or Units as defined in this Declaration.

SECTION 19.3 Voting Rights. Owners of Commercial Units will have a right to notice of meetings of the Association (if they request notice), to attend meetings, and to speak at such meetings in such manner as voting members, but they will not have any voting rights or any right to representation on the Southern Dunes Board of Directors.

SECTION 19.4 Assessments. Owners of Commercial Units will not be required to pay regular or special assessments assessed under Article 11 of this Declaration. As each Commercial unit or property is sold by the Declarant, the Declarant will determine such Commercial Unit's share or responsibility for common area expenses and maintenance and the manner of assessment and collection applied to such Commercial Unit.

SECTION 19.5 Architectural Control. Commercial Units shall not be subject to the Architectural Control requirements of Article 10 of this Declaration, however they shall be subject to the review of the New Construction Committee under Section 10.3.

SECTION 19.6 Covenants. Commercial Units shall not be subject to the Covenants under Article 17 of this Declaration.

ARTICLE 20. AMENDMENT OF DECLARATION

SECTION 20.1 General Amendments. Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

A. **Notice.** Notice of the subject matter of any proposed amendment shall be included in the notice of the meeting at which the proposed amendment is to be considered.

B. **Resolution.** A resolution to adopt a proposed amendment may be proposed by the Board of Directors or by Owners having in the aggregate at least one third of the votes of all Owners.

C. **Meeting.** The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly called and held in accordance with the provisions of the By-Laws herein.

D. **Adoption.** Any proposed amendment to Articles 5, 6, 7, 8 and 17 of this Declaration (the By-Laws) must be approved by a vote of not less than fifty percent (50%) in the aggregate of the votes of all Owners. Any proposed amendment to any other portion of this Declaration must be approved by a vote of not less than seventy percent (70%) in the aggregate of the votes of all Owners. There shall be no amendment or modification to Article 13 without the written approval of the owner of the golf course. There shall be no amendment or modification to Article 19 without the written consent of not less than seventy percent (70%) of the aggregate of the votes of all Owners and not less than seventy percent (70%) in the aggregate of the votes of all Commercial Unity Owners. In the event any Lot or Dwelling Unit is subject to a first

mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner, if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions hereof.

SECTION 20.2 Special Amendments. No amendment to this Declaration shall be adopted which changes: (a) the applicable share of an Owner's liability for the Common Expenses, or the method of determining the same; or (2) the provisions of this Declaration with respect to casualty insurance or fidelity bonds to be maintained by the Corporation; or (3) the provisions of this Declaration with respect to reconstruction or repair of the Common Area in the event of fire or any other casualty or disaster; or (4) the provisions of this Declaration establishing the Architectural Review Committee and providing for its functions; or (5) the provisions of this Declaration with respect to the commencement of assessments on any Lot, without, in each and any of such circumstances, the approval of at least seventy percent (70%) of all Owners and at least seventy percent (70%) of all Mortgagees whose mortgage interest have been made known to the Board of Directors in accordance with the provisions of this Declaration.

SECTION 20.3 Amendments by Declarant Only. Notwithstanding the foregoing or anything elsewhere contained herein or in any other documents, the Declarant shall have and hereby reserves the right and power acting alone and without the consent or approval of the Owners, the Corporation, the Board of Directors, any Mortgagees or any other Person to amend or supplement this Declaration at any time and from time to time if such amendment or supplement is made (a) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (b) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering Lots and Dwelling Units, (c) to add or delete land or lots from the Community, (d) to bring this Declaration into compliance with any statutory requirements, (e) to correct clerical errors or ambiguities in this Declaration or any Exhibit hereto or any supplement or amendment thereto, or (f) to bring the provisions relating to Utility Purchasing Agreements into compliance with any federal, state or local law, regulation or policy. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make, or consent to any amendments described in this Paragraph on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, other evidence of obligation, or other instrument affecting a Lot or Dwelling Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to vote in favor of, make, execute and record any such amendments. The right of the Declarant to act pursuant to rights reserved or granted under this Paragraph shall terminate at such time as the Declarant no longer holds or controls title to any part or portion of the Real Estate.

SECTION 20.4 Amendment Prior to the Applicable Date. Notwithstanding anything to the contrary contained herein or in the Declaration, there shall be no amendment of the Declaration prior to the Applicable Date without the consent and approval of Declarant.

SECTION 20.5 Recording. Each amendment to the Declaration shall be executed by any two officers of the Corporation and shall be recorded in the office of the Recorder of Marion County, Indiana and in the Office of the Recorder of Johnson County, Indiana, and such amendment shall not become effective until so recorded.

ARTICLE 21. MISCELLANEOUS PROVISIONS

SECTION 21.1 Annexation or Deletion Without Approval of Class "A" Membership. Declarant shall have the unilateral right, privilege, and option, from time-to-time at any time until all property described on Exhibit "2" has been subjected to this Declaration or January 31, 2020, whichever is earlier, to subject to the provisions of this Declaration and the jurisdiction of the Association, all or any portion of the real property described in Exhibit "2", attached hereto. Such annexation shall be accomplished by filing in the public records of Marion County, Indiana and Johnson County, Indiana, a Supplemental Declaration annexing such property.

Declarant shall have the unilateral right to transfer to any other person the right, privilege, and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be an affiliate of the Declarant or the developer of at least a portion of the real property described in Exhibits "1" or "2" and that such transfer is memorialized in a written, recorded instrument executed by the Declarant.

Declarant shall also have the unilateral right, privilege, and option, from time-to-time at any time until all property described on Exhibit "2" has been subjected to this Declaration or January 31, 2020, whichever is earlier, to remove portions of the Real Estate from this Master Declaration and from the Southern Dunes Community by filing a Supplemental Declaration identifying the portions of the Real Estate to be deleted. No portion of the Real Estate which has been platted or subjected to a Supplemental Declaration specifically incorporating this Declaration may be deleted from this Master Declaration or from the Southern Dunes Community and no portion of the Real Estate which is required for ingress or egress to and from the platted portions of the Community may be deleted without easements protecting the rights of Owners established in this Declaration.

A Supplemental Declaration shall not require the consent of Voting Members, but shall require the consent of the Owner of such property, if other than Declarant. Any such annexation or deletion shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

SECTION 21.2 Amendment to Exhibit "2". The Declarant may, prior to the Authority Transfer Date, record an amended Exhibit "2", which will permit Declarant to add real estate to the Southern Dunes community in addition to the real estate presently described in Exhibit "2", including additional lots or land for additional units or land for additional common area, so long as such real estate is contiguous to real estate identified in the present Exhibit "2" and so long as such real estate is, or will in the future, be contiguous to platted and developed real estate within the Southern Dunes community. Declarant may enlarge the legal description of Exhibit "2" by recording a Supplemental Declaration which includes a revised or expanded Exhibit "2" at any time prior to the Authority Transfer Date.

SECTION 21.3 Limitation on Time to Build or Rebuild. Any party other than the Declarant who secures title to a Lot or parcel in this Community agrees to commence construction of the intended residence or other development upon the Lot or parcel within one year of the date of purchase and complete construction of the residence or other development within one year from the date construction commences on said Lot or parcel. Extensions of these requirements may be granted in the sole discretion of the Declarant.

Failure to honor this condition shall establish an Option to Purchase said Lot and improvements thereon for cash at an appraised price as hereinafter detailed exercisable by written notice from the Declarant to the owners of said Lot within sixty (60) days of expiration of the initial or extended period.

The appraised price shall be agreed upon within ten (10) days of the Lot owner's receipt of the above written notice and if agreement is not reached

within such time, the Lot owner and the Declarant agree to submit the question of appraised value to a professional appraiser and be bound by same.

Each party shall select an appraiser and the two appraisers shall select a third, and this third appraiser shall proceed to determine the value of the lot and improvements. Both parties agree to name their respective appraiser within fifteen (15) days of the date of the aforesaid written notice. The appraisal shall be made within twenty-five (25) days of the date of the aforesaid written notice and the appraiser shall make his report in writing and furnish a copy thereof to each of the parties within five (5) days thereafter. The appraiser shall consider, in making his or her appraisal, the cost of completing construction according to the plans and the ordinary and usual costs of sale. Each party shall pay one-half of the cost of this appraisal and shall be conclusively bound by the appraisers' determination.

In the event of any loss to a residence or accessory structure within this Community, unless the Owner obtains approval from the Architectural Control Committee for an extension of time or permission not to rebuild, the Owner shall begin to rebuild within six months of the loss and shall complete the rebuilding within nine months of the loss. Failure to rebuild within these time allowances, or any time allowances extended by the Committee, shall give either the Declarant, the Association, or the applicable Subdivision Association the option to purchase outlined in this Section.

SECTION 21.4 Acceptance and Ratification. All present and future Owners, Mortgagees, tenants and occupants of any Lot or Unit shall be subject to and shall comply with the provisions of this Declaration, the Articles of Incorporation, and the rules and regulations as adopted by the Board of Directors as each may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Lot shall constitute an agreement that such provisions are accepted and agreed to by such Owner, tenant or occupant. All such provisions shall be covenants running with the land and shall be binding on any person having at any time any interest in a Lot or any portion of the Real Estate as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All persons or other legal entities who may occupy, use, enjoy or control a Lot or any part of the Real Estate shall be subject to the Declaration, the Articles of Incorporation, and the rules and regulations applicable thereto as each may be amended or supplemented from time to time.

SECTION 21.5 Association's Right to Purchase. The Association shall have the right to purchase Lots or Units, either from the Declarant or from any Builder, Owner, or foreclosure, sheriff's or tax sale. The Association may use reserve funds, regular budget funds, or a special assessment in order to do so.

SECTION 21.6 Negligence. Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents or lessees. An Owner shall pay the amount of any increase in insurance premiums occasioned by his use, misuse, occupancy or abandonment of his Lot or of the Common Area.

SECTION 21.7 Costs and Attorney's Fees. In any proceeding arising because of failure of an Owner to make any payments required or to comply with any provision of this Declaration, the Articles of Incorporation, or the rules and regulations adopted pursuant thereto as each may be amended from time to time, the Association shall be entitled to recover its reasonable attorney's fees incurred in connection with such default or failure.

SECTION 21.8 Waiver. No Owner may exempt himself from liability for his contribution toward the Common Expenses, whether by Regular Assessment or by Special Assessment, by waiver of the use or enjoyment of any of the Common Area or by abandonment of his Lot.

SECTION 21.9 Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration, the

Articles of Incorporation, or the Rules and Regulations adopted by the Board, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration, the Articles of Incorporation, or the Rules and Regulations, and each shall be enforced to the greatest extent permitted by law.

SECTION 21.10 Resolution of Disputes. Any dispute arising hereunder regarding the allocation of the budget requirements or assessments among owners or the by-laws and operation of the Association shall first be submitted, under the Indiana Rules for Alternative Dispute Resolution, for mediation and if mediation is not successful within thirty days of the request of any party for mediation, then the dispute shall be submitted for binding arbitration. A mediator or arbitrator agreeable to the parties does not have to be an attorney.

SECTION 21.11 Interpretation. Any reference to the masculine, feminine or neuter gender herein shall, unless the context clearly requires to the contrary, be deemed to refer to and include all genders. The singular shall include and refer to the plural and vice versa as appropriate. The captions and titles of the various articles and sections of this Declaration are inserted herein for ease and convenience of reference only and shall not be used as an aid in interpreting or construing this Declaration or any provision hereof.

If a conflict exists between the covenants contained in the Plat and those of this Declaration, the covenants in the Plat shall prevail. However, to the extent that there is not a direct conflict, both the provisions of the Plat Covenants and the provisions of this Declaration shall apply.

If a conflict exists between the covenants contained in this Declaration and the covenants in an applicable subdivision declaration, the covenants in this Declaration shall prevail. However, to the extent that there is not a direct conflict, both the provisions of this Declaration and the provisions of the subdivision declaration shall apply.

IN WITNESS WHEREOF, the undersigned, as the Developer of the above described real estate and a Member of the Wellingshire Joint Venture, has hereunto executed this Declaration this 11 day of December, 1998.

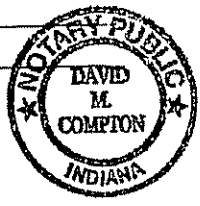
R.N. THOMPSON DEVELOPMENT CORPORATION

R.N. Thompson
R. N. Thompson, President

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE ME, the undersigned, a Notary Public, in and for said County and State, personally appeared R.N. Thompson, President of R.N. Thompson Development, Corporation, Declarant and Member of the Wellingshire Joint Venture, and acknowledged the execution of this Declaration this 5th day of December, 1998.

David M. Compton
Notary Public
DAVID M. COMPTON
Printed Name



My commission expires: June 27, 2001
My county of residence: HAMILTON

IN WITNESS WHEREOF, Waterway Holdings, Inc., a Member of the Wellingshire Joint Venture, has hereunto acknowledged the execution of this Declaration this 11 day of December, 1998.

WATERWAY HOLDINGS, INC.

By: Kenneth N. Giffin
Kenneth N. Giffin, President

STATE OF INDIANA)
COUNTY OF Marion) SS:

BEFORE ME, the undersigned, a Notary Public, in and for said County and State, personally appeared Kenneth N. Giffin, President of Waterway Holdings, Inc., who acknowledged the execution of this Declaration this 11 day of December, 1998.

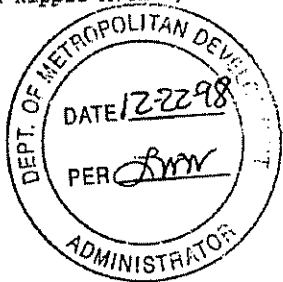
Wanda Wooldridge
Notary Public

Wanda Wooldridge
Printed Name

My commission expires: 9-7-04
My county of residence: Johnson

This Instrument was prepared by William T. Rosenbaum, Attorney at Law, 1901 Broad Ripple Avenue, Indianapolis, Indiana 46220 (317) 259-6600

December 4, 1998



37

APPROVED THIS 22nd
DAY OF December 19 98
PERRY TOWNSHIP ASSESSOR
John R. Gray DRAFTSMAN

Exhibits:

- "1" Legal Description of the initial Southern Dunes Community
- "2" Preliminary Layout of the Southern Dunes Community
- "3" Number of Votes Initially Assigned to the Developer
- "4" Deed restrictions from Waterway Holdings, Inc., which are also incorporated into this Declaration

Description of the Grube Tract

Parcel B

Part of the Southwest quarter of Section 10, Township 14 North, Range 3 East of the Second Principal Meridian described as follows:

Beginning on the North line of the said quarter Section 507.53 feet West of the Northeast corner thereof; thence South 00 degrees 03 minutes 11 seconds West 1287.79 feet; thence North 88 degrees 38 minutes 56 seconds East 507.53 feet to the East line of the said quarter Section; thence South 00 degrees 03 minutes 11 seconds West on and along the said East line 413.29 feet to the centerline of Little Buck Creek; thence South 85 degrees 03 minutes 11 seconds West on and along the said centerline 533.00 feet; thence North 81 degrees 11 minutes 49 seconds West on and along the said centerline 165.00 feet; thence South 00 degrees 03 minutes 11 seconds West 959.60 feet to the South line of the said quarter Section; thence South 88 degrees 34 minutes 16 seconds West on and along the said centerline 1240.65 feet; thence North 00 degrees 03 minutes 34 seconds West 2666.58 feet to the North line of the said quarter Section; thence North 88 degrees 38 minutes 56 seconds East on and along the said North line 1432.57 feet to the Point of Beginning containing 88.441 acres more or less, subject to all legal rights-of-way and easements.

Exhibit "1"

Description of the Deborah Tomey Tract

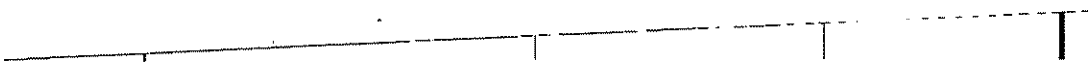
Parcel D-

A part of the Northeast Quarter of the Northeast Quarter of Section 20, Township 14 North, Range 3 East, more particularly described as follows:

Beginning at the Northeast corner of said Section, marked by a Harrison Monument per County Surveyor's ties, said point also being in the flow line of the Orme Ditch; thence South 65 degrees 05 minutes 24 seconds West 679.65 feet (measured) along said Section line to an 1/4" iron pipe as described in Instrument #89-94816, said point also being the point of beginning of this description; thence South 00 degrees 14 minutes 46 seconds East 522.13 feet to an 1/2" Rebar set; thence South 89 degrees 58 minutes 08 seconds West 660.14 feet to an 1/2" Rebar set, said point also being on the 1/4 Section line; thence North 00 degrees 06 minutes 10 seconds West 500.51 feet along said 1/4 Section line to a 5/8" Rebar set, said point also being on the North line of said Section; thence North 88 degrees 05 minutes 24 seconds East 659.15 feet along said Section line to the point of beginning.

Exhibit "1"

contd.



Description of the Oren Sutton Tract

Parcel E

Part of the Southeast Quarter of Section 20 Township 14 North, Range 3 East in Marion County, Indiana, described as follows:

Commencing at the Northeast corner of said Southeast Quarter thence South 89 degrees 59 minutes 57 seconds West 443.52 feet to the point of beginning of this description; thence South 1 degree 26 minutes 28 seconds West 2664.01 feet to the South line of said quarter section; thence North 89 degrees 26 minutes 19 seconds West along said South line 1,171.37 feet; thence North 1 degree 26 minutes 46 seconds East 2,652.55 feet to the North line of said Quarter Section; thence North 89 degrees 59 minutes 57 seconds East 1,171.37 feet to the point of beginning.

Exhibit "1"

contd



Description of the James Sutton Tract

Parcel E

Part of the Southeast Quarter of Section 20 and part of the Southwest Quarter of Section 21, all in Township 14 North, Range 3 East in Marion County, Indiana, described as follows:

Beginning at the Northwest corner of the Southwest Quarter of said Section 21; thence South 88 degrees 51 minutes 34 seconds East along the North line of said Southwest Quarter of said Section 21, 343.20 feet; thence South 1 degree 26 minutes 21 seconds West 2,667.44 feet to the South line of the Southwest quarter of said Section 21; thence North 89 degrees 0 minutes 42 seconds West 343.20 feet to the Southwest corner of said Southwest Quarter of said Section 21; thence North 89 degrees 26 minutes 19 seconds West along the South line of the Southeast Quarter of said Section 20, 443.52 feet; thence North 1 degree 26 minutes 28 seconds East 2,664.01 feet to the North line of said Southeast Quarter of Section 20; thence South 89 degrees 59 minutes 57 seconds East along said North line 443.52 feet to the Northeast corner of the Southeast Quarter of aforesaid Section 20 and to the point of beginning of this description.

Exhibit "1"

contd.

Description of Jim Sutton Tract

Parcel H

Parcel # 5005030359

Part of the East 1/2 of the Southwest 1/4 and part of the West 1/2 of the West 1/2 of the Southeast 1/4 of Section 21, Township 14, Range 3 in Marion County, Indiana, Beginning 805.65 feet South of the Northwest corner of the Northeast 1/4 of the Southwest 1/4 thence South 799.58 feet, thence east 989.48 feet, thence Northeast irregularly along the center line of Pleasant Run Creek a distance of 1195.95 feet, thence west 1603.71 feet to the point of beginning, containing approximately 21.44 acres.

Parcel # 5005005103

Part of the South 1/2 of Section 21, Township 14, Range 3, in Marion County, Indiana, beginning 326 feet East of the Northwest corner of the Southwest 1/4, thence East 1010 feet, thence South 1607.11 feet, thence East 1866.37 feet, thence Southwest irregularly 1035.46 feet, thence Northwest 50 feet, thence southwest 202.03 feet, thence west 1212.46, thence North 2657.2 feet to the point of beginning. Containing approximately 97.31 Acres.

Parcel # 5005028857

Part of the Northwest 1/4 of the Southeast 1/4 and part of the Southwest 1/4 of the Southeast 1/4 of Section 21, Township 14, Range 3, in Marion County, Indiana, having approximate dimensions a of 25' x 408.25', plus or minus. Containing approximately 0.234 acres.

Exhibit "1"

contd

Description of M. Sutton Tract

Exhibit "1"

contd

Tract I:

The South Half of the Northeast Quarter of Section 16, Township 14 North of Range 3 East, except the following described 2 parcels:

A part of the Southeast Quarter of the Northeast Quarter of Section 16, Township 14 North, Range 3 East, Marion County, Indiana, described as follows:

Commencing at the Southeast corner of said Quarter Quarter Section, thence North 599 1/2 feet along the East line of said Quarter Quarter Section to the point of beginning of this description, thence deflecting to the left 90 degrees 13 1/2 feet, thence North 51 degrees 59 minutes West 88.5 feet; thence Northeasterly 247.2 feet along an arc to the left and having a radius of 4,384.2 feet and subtended by a long chord having a bearing of North 19 degrees 12 minutes East and a length of 247.0 feet to said East line of said Quarter Quarter Section, thence South 298.2 feet along said East line to the point of beginning.

Also, a part of the Southeast Quarter of the Northeast Quarter of Section 16, Township 14 North, Range 3 East, Marion County, Indiana, described as follows:

Beginning at the Southeast corner of said Quarter Quarter Section, thence West 398 feet, thence Northeasterly 518.3 feet along an arc to the left and having a radius of 4,384.2 feet and subtended by a long chord having a bearing of North 26 degrees 47 minutes East and a length of 518.1 feet, thence North 80 degrees 25 minutes East 79.2 feet, thence South 18 degrees 26 minutes East 199.5 feet, thence East 20 1/2 feet to the East line of said Quarter Quarter Section, thence deflecting to the right 90 degrees and a distance South 289.5 feet along said line to the point of beginning.

Tract II:

A part of the Northwest Quarter of the Northeast Quarter of Section 16, Township 14 North, Range 3 East, more particularly bounded and described as follows:

Beginning at the Northwest corner of the Northeast Quarter, of said Section 16 and running thence East along the North line of said Section 16 for a distance of Eight Hundred Twenty-five and Thirty-nine Hundredths (825.39) feet to a point; thence South, parallel with the West line of said Section 16, for a distance of Thirteen Hundred Thirty-six (1336) feet to the South line of the North Half of the Northeast Quarter of said Section 16, thence West along the said South line for a distance of Eight Hundred Twenty-five and Thirty-nine Hundredths (825.39) feet to the West line of said Section 16, thence North along said West line for a distance of Ninety-eight and Twenty-eight Hundredths (98.28) feet, thence East parallel with the North line of said Section 16, for a distance of Eighty eight (88) feet; thence North, parallel with the West line of said Section 16, for a distance of One Hundred Fifty-six (156) feet, thence West parallel with the North line of said Section 16, for a distance of Eighty-eight (88) feet to the West line of said Section 16; thence North along said West line for a distance of Ten Hundred Eighty-one and Seventy-two Hundredths (1081.72) feet to the place of beginning.

Tract III:

A part of the Northwest Quarter of the Northeast Quarter of Section 16, Township 14 North, Range 3 East, more particularly described as follows:

Beginning at a point in the North line of the Northeast Quarter of Section 16, Township 16 North, Range 3 East, which point is distant Eight Hundred Twenty five and Thirty-nine Hundredths (835.39) feet East from the Northwest corner of said Northeast Quarter, and being also the Northeast corner of the tract of Twenty-five (25) acres conveyed to Lewis E. Sutton by deed of Jessie S. Wishard, dated May 5, 1929, and recorded in Land Record 85 at page 451 of the records of the Recorder's Office, running thence South along the East line of said Twenty-five (25) acre tract for a distance of Thirteen Hundred Thirty six (1336) feet to the South line of the North Half of the said Northeast Quarter of said Section 16, thence East along said South line for a distance of Four Hundred Eighty-nine and Seven Hundredths (489.07) feet to a point, thence North, parallel with the East line of said Twenty-five (25) acre tract, for a distance of Thirteen Hundred Thirty six (1336) feet to the North line of said Northeast Quarter of Section 16, and thence West along said North line for a distance of Four Hundred Eighty-nine and Seven Hundredths (489.07) feet to the place of beginning.

Subject to covenants, restrictions and easements of record, subject also to easements and rights of way.

Exhibit "1"

contd.

Description of Murphy Tract

Parcel K

Forty-One (41) acres of even width off the entire East side of the North Half of the Northeast Quarter of Section 16, Township 14 North, Range 3 East, in Marion County, State of Indiana.

Exhibit "1"

contd



Description of Haggood Tract

Parcel N

Part of the South half of the Southwest Quarter of Section 9, Township 14 North, Range 3 East, Marion County, Indiana, being more particularly described as follows:

Beginning at the Southeast corner of said quarter section, thence in a northwesterly direction, 513.97 feet along the centerline of Southport Road, thence West along said centerline parallel to the South line of said section, 1835.2 feet, thence in a southwesterly direction along said centerline 428.9 feet, thence South 60 feet, thence East along the South line of said section 2,680 feet to the point of beginning, containing 12.5 acres, more or less.

Also, the Northwest Quarter of Section numbered Sixteen (16) in Township (14) North of Range three (3) East containing 160 acres, more or less, more particularly described as follows:

Beginning at the Southeast corner of said quarter section, thence north along the centerline of said section 2680 feet, thence West along the North line of said section 2680 feet, thence South along the West line of said section 2662 feet, thence East 2688 feet along the centerline of said section to the point of beginning.

Exhibit "1"

contd

Exhibit "1"

contd

Desc. of American Aggregates Tract

The East half of the Northeast quarter of Section 17, Township 14 North, Range 3 East of the second principal meridian in Marion County, Indiana, containing 80 acres more or less, subject to any legal highways or right-of-way.

The North half of the Southeast quarter of Section 17, Township 14 North, Range 3 East of the second principal meridian in Marion County, Indiana, more particularly described as follows:

Beginning at the Northwest corner of said half quarter section, thence North 87 degrees 26 minutes 48 seconds East on and along the North line of said half quarter section for a distance of 2630.747 feet to the Northeast corner of said half quarter section; thence South 00 degrees 33 minutes 11 seconds East on and along the East line of said half quarter section for a distance of 1338.265 feet to the Southeast corner of said half quarter section; thence South 87 degrees 45 minutes 33 seconds West on and along the South line of said half quarter section for a distance of 2643.098 feet to the Southwest corner of said half quarter section; thence North 00 degrees 00 minutes 00 seconds East (assumed bearing) on and along the West line of said half quarter section for a distance of 1324.350 feet to the point of beginning, containing 80.539 acres, more or less, subject, however, to any and all legal highways and rights-of-way.

Excepting therefrom that which was previously conveyed:

The Northeast Quarter of the Northeast Quarter of Section 17, Township 14 North, Range 3 East, Marion County, Indiana, being a part of the land of Buck Creek Farms, Incorporated (as located in Instrument number 95-35811, office of the Marion County Recorder), described as follows:

Beginning at the Northeast corner of said Quarter Section; thence South 00 degrees 09 minutes 16 seconds West (all bearings recited in this description are referenced from State Plane Coordinates, North American Datum, 1983) along the east line of said Quarter Section 1334.53 feet to a 4 inch by 4 inch limestone monument, being the southeast corner of the northeast quarter of said northeast quarter section; thence South 88 degrees 06 minutes 37 seconds West along the south line of said quarter-quarter section 1336.61 feet to a 4 inch by 4 inch limestone monument, being the southwest corner of said quarter-quarter section; thence North 00 degrees 11 minutes 30 seconds East along said west line 1338.81 feet to the northwest corner of said quarter-quarter section; thence North 88 degrees 17 minutes 34 seconds East along said north line 1335.59 feet to the Point of Beginning. Containing 40.974 acres, more or less.

Description of the Dura Tract

Parcel C

Part of the Northwest Quarter of Section 15, Township 14 North, Range 3 East, of the Second Principal Meridian, Perry Township, Marion County, Indiana, described as follows:

Commencing at the Northwest corner of said quarter section said point being in the center of Southport Road; thence North 09 degrees 49 minutes 16 seconds East (assumed bearing) along the North line and the center of said road 642.00 feet to the Point of Beginning; thence continuing North 09 degrees 49 minutes 16 seconds East along said North line 303.64 feet to the Northwest corner of Tract 1 as described in a certain survey prepared by Franklin Engineering Company dated July 25, 1900, and certified by Daniel L. Murray (Ind. Reg. Land Surveyor No. 50098) said point marked by a Railroad spike found this survey; thence South 01 degree 17 minutes 14 seconds West along the West line of said Tract 1445.46 feet to the Southwest corner of said Tract, said point marked by an iron pin set this survey; thence South 37 degrees 52 minutes 04 seconds East 799.29 feet from the Southwest corner of said Northwest quarter, said point marked by an iron pin set this survey; thence North 87 degrees 45 minutes 13 seconds West 479.55 feet to a point on the West line of said Northwest quarter 649.08 feet North of the Southwest corner of said Northwest quarter, said point being in the center of old Belmont Street, said point marked by an iron pin set this survey; thence North 01 degree 00 minutes 36 seconds East along said West line and the center of said Belmont Street 236.12 feet to a point on the East right-of-way line of State Road 37 as located per the plans of the Indiana State Highway Commission for Project "F" No. 090(27) dated 1963, said right-of-way being a Limited Access Right-of-Way per said plans and being on a curve to the left from which the radius point is North 71 degrees 08 minutes 15 seconds West 4384.20 feet said point marked by an iron pin set this survey; thence along said curve and right-of-way whose delta is 17 degrees 20 minutes 59 seconds and chord bears North 10 degrees 07 minutes 15 seconds East 1332.59 feet an arc length of 1337.78 feet to the Point of Tangency of said curve from which the radius point is North 80 degrees 37 minutes 14 seconds West 4384.20 feet, said point marked by an iron pin set this survey; thence North 01 degree 22 minutes 46 seconds East tangent to last said curve and along said right-of-way 406.40 feet to a right-of-way break per said plans, said point marked by an iron pin set this survey; thence North 39 degrees 55 minutes 34 seconds East along said right-of-way 28.21 feet to a point marked by an iron pin set this survey; thence South 01 degree 00 minutes 36 seconds West, parallel to the West line of said Northwest quarter 162.38 feet to a point marked by an iron pin set this survey; thence North 89 degrees 49 minutes 16 seconds East 410.60 feet to a point marked by an iron pin set this survey; thence North 01 degree 00 minutes 36 seconds East parallel to said West line 214.70 feet to a point on the North line of said Northwest quarter, said point also being in the center of Southport Road, said point marked by a Railroad spike found this survey and being the Point of Beginning.

Also, an ingress-egress easement for access to Belmont Street described as follows:

Part of the Northwest Quarter of Section 15, Township 14 North, Range 3 East, of the Second Principal Meridian, Perry Township, Marion County, Indiana, described as follows:

Beginning at a point on the West line of said Northwest quarter 440.60 feet North of the Southwest corner of said Northwest quarter, said point being in the center of old Belmont Street; thence North 01 degree 00 minutes 36 seconds East along said West line and said Belmont Street 209.28 feet to the Southwest corner of, above described 22.343 acre parcel; thence South 87 degrees 45 minutes 13 seconds East along the South line of said parcel 50.01 feet to a point 50 feet East of said West line; thence South 01 degree 00 minutes 36 seconds West parallel to said West line 88.26 feet; thence South 13 degrees 14 minutes 02 seconds West 113.60 feet to a point 25.00 feet East of said West line; thence North 07 degrees 44 minutes 38 seconds West 25.00 feet to the Point of Beginning.

Exhibit "1"

contd

Description of the Ristow Tract

Parcel D

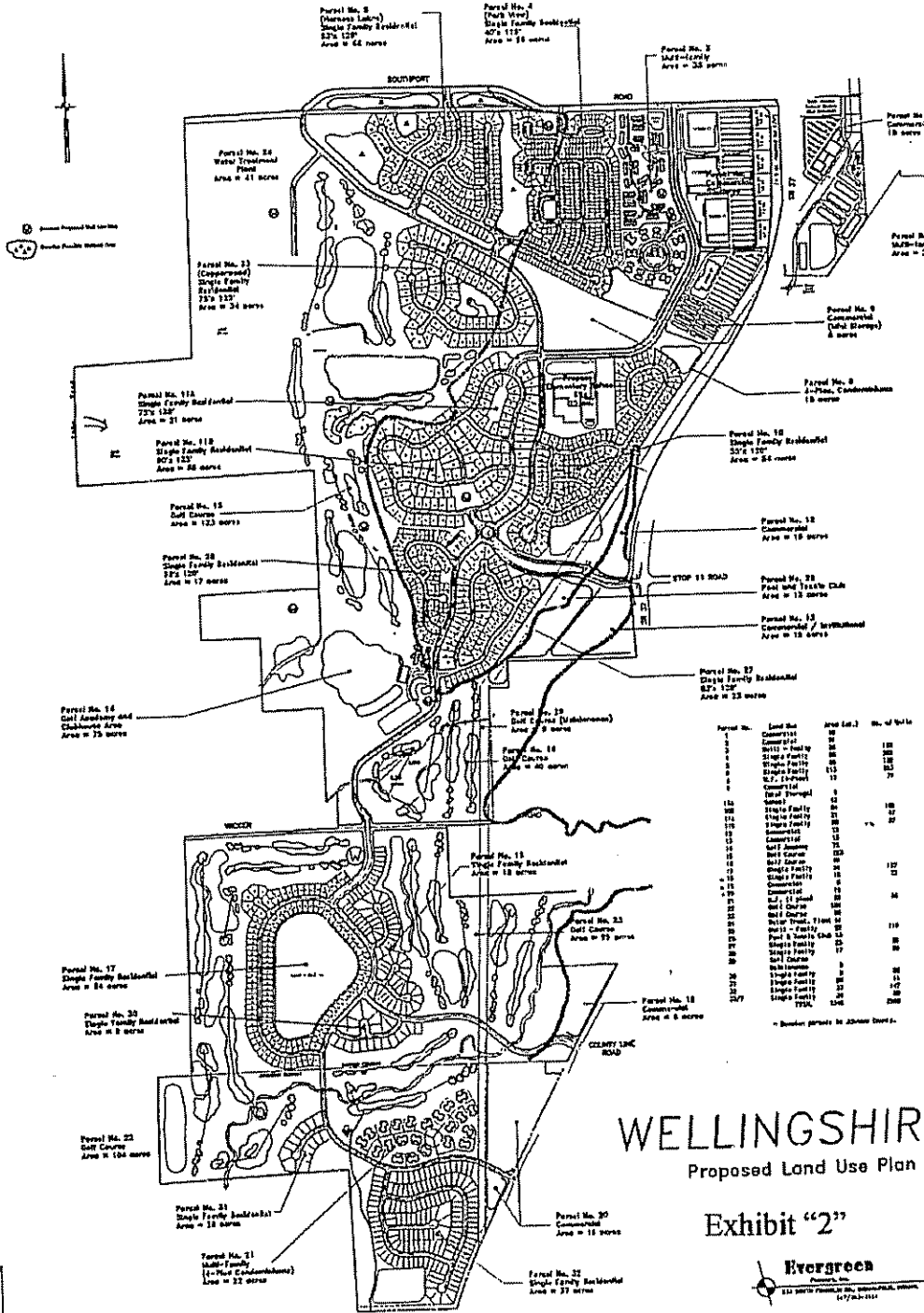
The Southwest Quarter of Section 16, Township 14 North, Range 3 East; a part of the Southeast Quarter of Section 16, of said Township and Range; a part of the West Half of the Northeast Quarter of Section 21, of said Township and Range; a part of the Northwest Quarter of Section 21 of said township and range; and the East half of the Northeast Quarter of the Northeast Quarter of Section 20 of said Township and Range, and all in Marion County, Indiana, more particularly described as follows:

Commencing at the Northeast Corner of the Southeast Quarter of said Section 16, marked by a P.K. nail as shown on the corner ties in the Marion County Surveyor's Office; thence North 89 degrees 56 minutes 21 seconds West (assumed bearing) 120.11 feet on the North line of said Southeast Quarter to a P.K. nail in the center of Belmont Avenue; the next (7) calls are on the centerline of Belmont Avenue; (1) thence South 41 degrees 44 minutes 05 seconds West 265.37 feet to a P.K. nail; (2) thence South 48 degrees 36 minutes 43 seconds West 404.75 feet to a P.K. nail; (3) thence South 33 degrees 35 minutes 13 seconds West 245.00 feet to a P.K. nail; (4) thence South 25 degrees 48 minutes 13 seconds West 1,282.60 feet to a P.K. nail; (5) thence South 57 degrees 13 minutes 17 seconds East 83.05 feet to a P.K. nail; (6) thence South 20 degrees 46 minutes 43 minutes West 329.50 feet to a P.K. nail; (7) thence South 0 degrees 09 minutes 13 seconds West 469.45 feet to a P.K. nail at the Northeast corner of the West Half of the Northeast Quarter of said Section 21, as shown on said corner ties; thence South 0 degrees 05 minutes 59 seconds East 871.25 feet on the East line of said West Half to a P.K. nail; thence South 09 degrees 32 minutes 38 seconds West 289.43 feet to a 4 inch square concrete post in the East right-of-way access control line of State Road 37; thence South 89 degrees 32 minutes 38 seconds West 174.10 feet to a 4 inch concrete post in the West right-of-way access control line of State Road 37; thence South 89 degrees 32 minutes 38 seconds West 868.08 feet to a 4 inch square concrete post in the West line of said West Half, said concrete post being South 0 degrees 05 minutes 00 seconds West 871.25 feet from the Northwest corner of said West Half; thence South 89 degrees 52 minutes 15 seconds West 588.47 feet, parallel with the North line of the East Half of the Northwest Quarter of said Section 21, to a 6 inch concrete post marked WC; thence South 0 degrees 01 minute 30 seconds West 290.75 feet, parallel with the West line of said East Half of said Northwest Quarter to a 6 inch square concrete post marked WC; thence South 89 degrees 52 minutes 15 seconds West 228.26 feet, parallel with the North line of said East Half, to a 6 inch square concrete post marked WC; thence South 0 degrees 01 minute 30 seconds West 1,508.07 feet, parallel with the West line of said East Half, to a P.K. nail in the South line of said East Half; thence South 89 degrees 32 minutes 10 seconds West 518.47 feet to a P.K. nail at the Southwest corner of said East Half of said Northwest Quarter as shown on said corner ties; thence South 89 degrees 36 minutes 10 seconds West 1,207.07 feet on the South line of the West Half of the Northwest Quarter of said Section 21 to a P.K. nail which lies North 89 degrees 36 minutes 10 seconds East 125.20 feet from the Southwest corner of said West Half; thence North 0 degrees 03 minutes 26 seconds West 405.07 feet, parallel with the West line of said West Half, to a 4 inch square concrete post on the North bank of the South bank of Orme Ditch (a 3/8 inch rebar with cap lies on the North bank of said ditch, North 0 degrees 03 minutes 26 seconds West 15.00 feet from said 4 inch concrete post); thence South 47 degrees 40 minutes 09 seconds West 169.20 feet to a point (a 3/8 inch rebar lies on the North bank of said ditch, said point being on the West line of said West Half and North 0 degrees 03 minutes 26 seconds West 292.00 feet from the Southwest corner of said West Half said corner being marked with a steel rod as shown on said corner ties; thence North 0 degrees 03 minutes West 1,047.66 feet on the West line of said West Half to a 6 inch square concrete post at the Southeast corner of the East Half of the Northeast Quarter of the Northeast Quarter of said Section 20; thence South 89 degrees 14 minutes 54 seconds West 675.59 feet on the South line of said East Half Quarter to a 1/2 inch galvanized pipe at the Southwest corner thereof; thence North 0 degrees 14 minutes 09 seconds West 1,337.67 feet on the West line of said East Half Quarter to a 1 1/4 inch galvanized pipe at the Northwest corner thereof; thence North 88 degrees 05 minutes 24 seconds East 675.61 feet to a Harrison monument in the flow line of Orme Ditch, as shown on said corner ties, at the Northeast corner of the Northeast Quarter of said Section 20, which monument is also the Southwest corner of the Southwest Quarter of said Section 16; thence North 0 degrees 01 minute 51 seconds West 2,669.10 feet on the West line of said Southwest Quarter to a 6 inch square concrete post marked WC at the Northwest corner of said Quarter; thence South 89 degrees 56 minutes 21 seconds East 2,673.93 feet on the North line of said Quarter to a 6 inch square concrete post marked WC at the Northeast corner of said Quarter; thence South 89 degrees 56 minutes 21 seconds East 2,059.50 feet on the North line of the Southeast Quarter of said Section 16 to a 4 inch square concrete post in the West right-of-way access control line of State Road 37; thence South 89 degrees 56 minutes 21 seconds East 203.17 feet on the North line of said Quarter to a 4 inch square concrete post in the East right-of-way access control line of State Road 37; thence South 89 degrees 56 minutes 21 seconds East 278.24 feet on said North line of said Quarter to the Point of Beginning.

Excepting herefrom all real estate described herein that lies east of State Road 37.

Exhibit "1"

contd.



Parcel No. 8
(Horseshoe Lake)
Single Family Residential
32% L20
Area = 64 acres

Parcel No. 4
(Park View)
Single Family Residential
40% L10
Area = 16 acres

Parcel No. 3
Multi-family
Area = 22 acres

Parcel No. 24
Water Treatment
Plant
Area = 21 acres

Parcel No. 23
(Copperwood)
Single Family
Residential
25% L20
Area = 24 acres

Parcel No. 11A
Single Family Residential
22% L20
Area = 21 acres

Parcel No. 11B
Single Family Residential
20% L20
Area = 20 acres

Parcel No. 15
Duff Course
Area = 123 acres

Parcel No. 20
Single Family Residential
22% L20
Area = 17 acres

Parcel No. 16
Golf Assembly and
Clubhouse Area
Area = 75 acres

Parcel No. 19
Duff Course (Clubhouse)
Area = 9 acres

Parcel No. 14
Duff Course
Area = 20 acres

Parcel No. 11
Single Family Residential
Area = 18 acres

Parcel No. 23
Duff Course
Area = 75 acres

Parcel No. 17
Single Family Residential
Area = 24 acres

Parcel No. 20
Single Family Residential
Area = 8 acres

Parcel No. 22
Duff Course
Area = 104 acres

Parcel No. 21
Single Family Residential
Area = 12 acres

Parcel No. 21
Multi Family
(1-Flat Condominiums)
Area = 12 acres

Parcel No. 30
Commercial
Area = 16 acres

Parcel No. 25
Single Family Residential
Area = 27 acres

Parcel No.	Land Use	Area (Ac.)	No. of Lots
1	Commercial	20	10
2	Multi-Family	22	100
3	Single Family	20	200
4	Single Family	16	160
5	Single Family	115	115
6	R.F. (1-Flat)	12	72
7	Commercial	1	1
8	Single Family	12	12
9	Single Family	20	100
10	Single Family	20	100
11	Commercial	18	72
12	Single Family	20	200
13	Commercial	18	72
14	Duff Course	20	20
15	Duff Course	123	123
16	Duff Course	75	75
17	Single Family	24	120
18	Single Family	8	40
19	Commercial	9	45
20	Duff Course	17	17
21	Duff Course	104	104
22	Multi-Family	12	12
23	Single Family	24	240
24	Water Treatment Plant	21	21
25	Single Family	27	270
26	Single Family	8	40
27	Single Family	27	270
28	Single Family	12	60
29	Single Family	12	60
30	Commercial	16	80
31	Commercial	16	80
32	Commercial	16	80
33	Commercial	16	80
34	Commercial	16	80
35	Commercial	16	80
36	Commercial	16	80
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98	Commercial	16	80
99	Commercial	16	80
100	Commercial	16	80

WELLINGSHIRE

Proposed Land Use Plan

Exhibit "2"

Evergreen
 Planning, Inc.
 210 North Main Street, Suite 200, Everett, WA 98201
 (425) 335-1111

No. of votes Initially assigned to the Developer:

= 12,525

Exhibit "3"

Waterway Holdings, Inc. Deed Restrictions

1. the liens for taxes payable in 1999, and thereafter;
- and
2. all other easements, rights-of-way, restrictions, covenants and encumbrances of record.

Waterway further reserves to Indianapolis Water Company ("IWC"), and the South Well Field Land is hereby made subject to, the following covenants, restrictions, rights, easements and servitudes, all of which shall run with the South Well Field Land and shall be binding upon and inure to the benefit of Wellingshire and IWC and their successors and assigns:

1. Title to the South Well Field Land shall include only the surface of the South Well Field Land and the air above. Wellingshire shall have no rights with respect to water below the surface of the South Well Field Land. IWC shall have the right at any time and from time to time to pump, remove, own and dispose of water from the Aquifer and, for that purpose, to install on and in the South Well Field Land and thereafter operate, maintain, repair and replace, at its election, production and observation wells, lines, equipment and other facilities deemed necessary or appropriate by IWC for such pumping and removal of water from the Aquifer for delivery to its system or for the observation of ground water located in or about the South Well Field Land (such wells and related

Exhibit "4"

facilities being referred to hereinafter collectively as the "Wells").

2. IWC shall have an easement of reasonable ingress and egress at all times for vehicles and pedestrians upon, across and through the South Well Field Land, in order to provide ready access to the Wells for its personnel, materials and equipment. Around each of the Wells that IWC develops there shall also be a wellhead protection zone for a distance of one hundred (100) feet in all directions from the wellhead on the property. There shall be no construction permitted in any such wellhead protection zone, including, but not limited to, the construction of any golf green or fairway or other facility.

3. The South Well Field Land shall not be used by Wellingshire for any industrial, commercial or other business purpose of a type which stores, uses, produces or otherwise permits to be located on the premises noxious materials or materials which might cause contamination or pollution of the Aquifer or interfere with proper use, functioning or maintenance of the Wells. No waste, oil or other deleterious materials shall be discharged, and no trash, garbage or debris shall be dumped in or upon, the South Well Field Land or the Aquifer. Nor shall any septic or waste disposal system be installed which discharges any effluent or substance of any kind into, under or upon the South Well Field Land. No wells shall be installed by Wellingshire in or on the South Well Field Land. The South Well

Exhibit "4"

Field Land shall not be used in any manner which causes or might cause contamination or pollution of the Aquifer or interfere with proper operation, functioning, or maintenance of the Wells. No fertilizers, pesticides, agrichemicals, or other substance may be applied to growing crops, lawns, gardens, or other landscaping which has not been approved by IWC and Purdue University or the Office of the Indiana State Chemist, for application in, on, or near a wellfield. The South Well Field Land shall not be excavated or mined without the written approval of IWC. Such approval will be considered only after the submission of a plan which provides for the protection and preservation of the Wells and the Aquifer. If the South Well Field Land is excavated or mined and a lake or inundated area results, IWC shall own the water in such lake or inundated area and may withdraw water therefrom without regard to the water level of the lake or inundated area. Neither Wellingshire nor any subsequent owner of the South Well Field Land shall have rights of any character with respect to the water level of the Aquifer, lake or lakes, retention ponds, or an inundated area on the South Well Field Land. It is understood that the water level in the Aquifer, lake or lakes, retention ponds, and inundated areas will fluctuate and there will be times when such water level may be higher or lower than normal, affecting nearby land, including the South Well Field Land.

Exhibit "4"

4. If Wellingshire violates or causes or permits any condition to exist in violation of any of the provisions hereof, after reasonable notice, IWC may, in addition to its other remedies at law or in equity, enter upon the South Well Field Land and correct or eliminate such violation or condition and recover the cost thereof from Wellingshire.

5. IWC has committed to use reasonable care and good workmanship in the exercise of any of its rights described herein. If, however, the South Well Field Land is damaged by action of IWC, IWC will, to the extent it deems reasonably possible, repair and restore the property of Wellingshire to its previous condition, and this shall be IWC's sole obligation and Wellingshire's sole remedy arising out of any damage caused by IWC.

6. IWC has the right to release or modify in any manner not more burdensome to Wellingshire all or any part of the covenants, restrictions, easements and servitudes that are described herein, without the consent of any other party. The release or modification of all or any part of said covenants, restrictions, easements and servitudes with respect to any part of the South Well Field Land shall not affect the validity or enforceability of any of said covenants, restrictions, easements and servitudes with respect to any other part of the South Well Field Land, and a failure to enforce the same shall not constitute a waiver thereof. Any consent that may be given by

Exhibit "4"

IWC to actions that would violate said covenants, restrictions, easements and servitudes must be in writing, signed by the IWC President or a Vice President thereof.

7. Wellingshire shall be responsible for all taxes and assessments imposed with respect to the South Well Field Land.

8. The undersigned person executing this deed on behalf of Waterway represents and certifies that he is a duly elected officer of Waterway and is authorized to execute and deliver this deed on Waterway's behalf; and that all necessary corporate action for the execution and delivery of this deed has been taken.

Exhibit "4"
